

**DECISION**  
**of the**  
**LIFE INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**Respecting**  
**MARIA GIMA TROJILLO**  
**(“Former Licensee”)**

**INTRODUCTION**

The Life 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*.

In response to information received by Council an investigation was conducted pursuant to sections 375(1) and 396.1(7)(c) of the *Act*, and section 7(2)(e) of *Regulation 227/91* to determine whether the Former Licensee had violated the *Act*, its *Regulations*, and/or the Life Insurance and Accident and Sickness Agent’s Code of Conduct (“*Code of Conduct*”). During the investigation the Former Licensee was given an opportunity to make submissions with respect to Council’s concerns.

On April 8, 2015, during a meeting of Council, the evidence compiled during the investigation was presented; upon review Council determined its intended decision. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council hereby renders its intended decision and corresponding reasons.

**ISSUES**

1. Did the Former Licensee fail to maintain liability insurance (Errors and Omissions insurance (“E&O”)) in violation of section 371(1.1) of the *Act* and section 12(1) of the *Insurance Agents and Adjusters Regulation 389/87*?
2. Did the Former Licensee fail to notify Council, without delay, of the lapse of her liability insurance (E&O) in violation of section 372.1(2) of the *Act*?
3. Did the Former Licensee violate section 4 of the *Code of Conduct* – Professionalism – Financial Accountability, by failing to maintain liability insurance?

## **FACTS AND EVIDENCE**

1. At all material times, the Former Licensee held Life and Accident and Sickness licences for the Province of Manitoba.
2. To hold/maintain a Life and/or Accident and Sickness licence(s) in the Province of Manitoba, liability insurance (E&O) is required pursuant to section 371(1.1) of the *Act* and in accordance with section 12(1) of *Regulation 389/87*.
3. On her licensing application (the “Application”) dated October 17, 2012, the Former Licensee declared that she:
  - a. Would maintain liability insurance (E&O) as required under section 371(1.1) of the *Act* and section 12(1) of *Regulation 389/87*; and,
  - b. Understood she was to notify Council without delay if her liability insurance (E&O) lapsed or was cancelled, pursuant to section 372.1(2) of the *Act*.
4. Section 21 of the Application contains a “Certification” section to which the Former Licensee affixed her signature affirming that she would notify Council in writing of any material change within 15 days.
5. The Former Licensee specified on her May 14, 2014 renewal application (the “Renewal”) that her E&O certificate had an expiry date of October 24, 2014; again, she agreed to notify Council within 15 days of any material changes to the information contained in the application.
6. By email dated October 15, 2014, the Former Licensee’s broker (the “Broker”) notified her that an E&O renewal application was required; this email was sent to the Former Licensee’s valid email address.
7. The Former Licensee’s E&O coverage expired on October 24, 2014.
8. The Former Licensee did not complete her E&O renewal application until January 13, 2015.
9. By email dated January 29, 2015, the Former Licensee provided to Council a copy of replacement E&O, effective January 15, 2015.

10. The Former Licensee therefore held Life and Accident and Sickness licences from October 24, 2014 to January 14, 2015 without the required liability insurance; she failed to advise Council of the lapse until January 29, 2015.
11. By letter to the Former Licensee dated March 17, 2015, Council requested comments as to the circumstances leading to the lapse of coverage, and information concerning business conducted.
12. In reply to Council's March 17, 2015 letter, Council received a March 24, 2015 email from the Former Licensee in which she acknowledged:
  - a. Her E&O had lapsed;
  - b. She had received a renewal notice from the Broker;
  - c. She apologized for her "*negligence of not informing*" Council of the lapse in coverage;
  - d. Advised she refrained from carrying on the activities of an insurance agent; and,
  - e. Presented personal circumstances as an explanation for failing to maintain E&O coverage.

## **ANALYSIS**

It was the Former Licensee's responsibility to ensure that she continually maintained liability insurance (E&O) while holding Life and Accident and Sickness licences and to notify Council without delay in the event her E&O lapsed or was cancelled.

Upon review of the facts and evidence before it, Council has determined that during the period of October 24, 2014 to January 14, 2015, the Former Licensee was in breach of section 371(1.1) of the *Act* and section 12(1) of *Regulation 389/87* by failing to continually maintain liability insurance (E&O). The Former Licensee's failure to maintain liability insurance (E&O) also resulted in a breach of section 4 of the *Code of Conduct – Professionalism – Financial Accountability*. In addition, the Former Licensee breached section 372.1(2) of the *Act*, by failing to notify Council without delay that her E&O had lapsed.

By the Former Licensee's own admission she received written notification from the Broker that an E&O renewal application was required; she failed to act upon this notice without delay.

The Former Licensee acknowledged a lapse of E&O and apologized for her negligence of failing to promptly notify Council of the lapse in coverage.

Council considered personal circumstances and the lack of business placed as mitigating factors, however, compliance with the requirement for E&O is mandated by the *Act* and *Regulation 389/87R*.

Based on the foregoing, Council has concluded that discipline is warranted.

### **DECISION AND PENALTY**

Council's Intended Decision dated April 15, 2015 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 \$250.00 and assessed partial investigation costs of \$250.00.

As part of its Intended Decision, Council further informed the Former Licensee of her right to request a Hearing to dispute Council's determinations and its penalty/sanction. The Former Licensee expressly declined her right to a Hearing and chose not to pursue a statutory Appeal; she instead expressly accepted the Intended Decision and duly paid the levied fine and partial investigation costs.

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 sections 7.1(1) and (2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on May 1, 2015.