

**DECISION**  
**of the**  
**GENERAL INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**respecting**  
**BRAD L. S. HILTON**  
**(“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 receipt of information during a random audit of continuing education certificates to meet the licensing requirements of the Licensee, 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’s activity violated the *Act* and/or the General Insurance Agent Licensing Rules (“*Licensing Rules*”) and/or the General Insurance Agent Code of Conduct (“*Code of Conduct*”). During the investigation the Licensee was notified of the complaint and provided an opportunity to make submissions.

On September 29, 2016, during a meeting of Council, the evidence compiled during the investigation and the position of the Licensee were reviewed. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council now confirms its decision and corresponding reasons.

**ISSUES**

1. Did the Licensee repeatedly fail to complete the continuing education credits required for renewal of his agent licence for each year, over an extended number of years?
2. Did the Licensee misrepresent to Council that he had completed the required continuing education credits by entering false information in his profile and in making a false declaration in his licence renewal applications?

## FACTS AND EVIDENCE

1. Completion of eight (8) mandatory continuing education credits (CEC) is required as a condition of renewal for a general insurance agent licence in accordance with Section 9(1) and (2) of the General Insurance Agents Licensing Rules. Each course is assigned a course number and specified number of credits. These credits must meet the Council-approved definition.
2. The Licensee reported the following eight courses on the ICM's on-line system to meet the 2015-2016 continuing education requirements. Based on this reporting the requirement had been met.

May 25, 2016	6589	Business Income (Profits Form)	2 credits
May 26, 2016	12307	Part 2 Commercial Property Insurance	2 credits
May 26, 2016	15525	The ABC's of Marine Cargo Insurance	2 credits
May 24, 2106	19688	Commercial Property Insurance: All Risk Policies	2 credits

3. On May 26, 2016, the Licensee completed the ICM's on-line licence renewal application for his 2016 general insurance agent's licence.
4. In completing this application, the Licensee declared that the information provided was true and accepted the responsibility for the answers and undertakings. He also confirmed that he understood that a false declaration on this application could lead to disciplinary action.
5. Based on the information provided by the Licensee, his 2016 licence was renewed.
6. On June 14, 2016, the Licensee was advised that he had been selected for a random audit of the continuing education credits which were required to be accumulated between June 1, 2015 and May 31, 2016.

### Licensee's letter of June 20, 2016

7. The Licensee submitted to the Council two Certificates of Completion dated **after the audit period: June 1, 2015 and May 31, 2016** (emphasis added):

June 15, 2016	12413	Homeowners Property Coverages	3 credits at 1:12 PM
June 15, 2016	12418	The Commercial General Liability Policy	6 credits at 1:31PM
8. In an accompanying letter to the Council, the Licensee acknowledged that he had left his licence renewal until late, went on line to complete the courses, and noted that there would be anywhere between 1 – 3 days that he could access the courses. He recorded the courses on the ICM system although they had not been completed.
9. None of the four courses reported online for 2015-2016 had been completed although they had been submitted.

10. The Licensee provided an explanation that in operating as a one-person, busy practice, he was focused on his practice and clients and his personal obligations at times were placed “on the backburner”. He noted his good licence history with the ICM for consideration.
11. Council required the Licensee to provide copies of his Certificates of Completion for the CECs which he had entered in the ICM system to meet the licensing requirement for his 2015 licence:

May 27, 2015	1319	The New IBC CGL Exclusions	2 credits
May 27, 2015	1316	Law, the Internet & the Insurance Sector	2 credits
May 27, 2015	1321	Lab – Building and Insurance Website	2 credits
May 27, 2015	1315	Understanding & Insuring eBusiness Part I	2 credits

Licensee’s response July 11, 2016

12. The Licensee advised that his submission for CECs for 2014 – 2015 was also in error. He stated that he had a struggle accessing the new electronic submission system. He had left his submission for that year to the last minute and submitted courses which had not been completed.
13. In late May he had accessed his ICM on-line renewal and reviewed the course names and numbers approved by the ICM on the website. He noted the courses and went to the approved course provider section which took him to the provider web site. From this site, he could not find the course information. He then went to the ICM courses currently offered but as he had no course name or number, he could not access this page.
14. The Licensee went to the reporting area and entered courses to renew his licence.
15. In May 2015 and in May 2016, no CECs were taken.
16. The Licensee stated that he was dysfunctional with computers but should have sought assistance with the issues of accessing the CEC courses. Further, he should have investigated why he could not locate the course information.
17. Upon receipt of notice of the mandatory audit from the ICM and with the knowledge that he could not produce the certificates, the Licensee contacted the Insurance Brokers’ Association of Manitoba (IBAM) and was guided through its on-line registration process. He registered for two courses. He reviewed the material and completed the multiple choice tests over the noon hour and early afternoon. He provided information on how he was able with assistance to register and complete the courses on June 20, 2016.
18. The Licensee provided additional information to the Council in an attempt to explain his issues from 2013 when he did not complete the required CECs.

19. The Licensee provided the Council with additional course credits for 2014 - 2015 and advised that he would be reviewing his earlier reported credits.

The Licensee's July 21, 2016 response

20. The Licensee confirmed that he made an error in reporting his 2013 – 2014 CEC's. Due to tardiness, he did not complete the courses submitted. He completed two programs for replacement:

July 13, 2016 12808 Crime Insurance	6 credits
July 14, 2016 12416 Personal Automobile Insurance	3 credits

21. In 2012 – 2013 he completed the following course – not the two for which he was registered: Commercial Insurance Analysis & Application and Business Succession Planning:

May 29, 2013 Conflict of Interest (Guidelines for Brokers) 2 credits

22. The Licensee completed the following to ensure compliance with 2012 – 2013:

July 13, 2016 12422 Risk Management Basics	3 credits
July 19, 2016 12810 Travel Accident Insurance	3 credits

23. With respect to the speed in completing the replacement of his 2015 – 2016 courses, he noted that he quickly reviewed the course material. He was satisfied that he was familiar with the subject matter and challenged the multiple choice exams to ensure that he was compliant. He advised the Council that this was not the best means to complete the course.

24. The Licensee stated that he had struggles with the on-line system of Captus at the IBAM website in early July 2016 and provided copies of emails between Captus and him as proof. He was confident that prior to the 2012 – 2013 year, he had completed the required CECs.

25. Between August 2, 2016 and September 12, 2016, additional correspondence and activity between the investigator and the Licensee resulted in the Licensee fully meeting his prior CEC requirement for licencing.

26. An extensive review of reported and submitted CECs with certificates was performed by the investigator. The result of which indicated that from 1997 until 2012 the Licensee met or exceeded the CEC requirement. In 2012, he repeated a course which placed him in a deficit position. Between that period and his licence renewal in 2016, he failed to meet the annual requirement and became further in arrears with his CEC requirement. A listing was provided to Council between 1996 and the current position.

## ANALYSIS

Between 2013 and 2016, the Licensee entered continuing education courses on-line to complete his CEC requirement for licence renewal. Although in each and every one of these annual licensing years the Licensee had not completed all of these courses, he submitted his agent's licence renewal application declaring that he had done so. In processing his renewals, he declared that the information was true, and that a false statement could lead to disciplinary action.

Following a random audit by ICM for 2015-2016, the Licensee was unable to provide proof that he had completed the courses entered on the ICM system and indicated that he was a busy one-person office with his primary interest in serving his clients.

Further investigation resulted in an acknowledgement that the Licensee had not completed other courses which he entered in his on-line status. A full review of his CECs since 1997 showed one disallowed course in 2012 and each year following a failure to meet the CEC requirement.

Council considered the explanation that he was unfamiliar with on-line continuing education courses and produced examples of his correspondence. The Licensee noted that he was late in completing the requirements in one year but that led to repeated failure year over year during which time he could have acquired the knowledge to register and complete on-line courses, or find alternate accredited programs. It was noted that he applied himself, and was able to access and to complete on-line courses when he came under the ICM audit. As well, there were other courses which were available and did not require computer knowledge that could have been taken by the Licensee during that span of time.

It is the Licensee's responsibility to complete and report the continuing education credits based on mandated numbers and meeting the definition. Council noted the repeated failure of the Licensee to complete the CECs over multiple years. This was exacerbated by the fabrication and wilful reporting of courses for which the Licensee did not register and/or complete.

In addition the Licensee annually declared that all information was true and accurate, and he knowingly accepted that he could be disciplined for these false statements. Agents are required to act with integrity in matters in dealing with a number of parties including the regulator, making this matter one of grave concern to the Council.

The Licensee violated the Insurance Act s. 375 (1)(a) and (b), and the Code of Conduct s. 1 Integrity by making misrepresentations to the Council each year since 2013 by failing to complete his CECs in violation of the Licensing Rules s. 9 (1) and (2).

Council considered the Licensee's licensing and compliance history, and acknowledged his actions in completing the required courses to backfill the incomplete credits.

## **PENALTY AND FINAL DECISION**

Council's Intended Decision dated October 24, 2016, 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) of *the Act* and section 7 (1) of *Regulation 227/91*:

1. The Licensee be fined \$2,500.00 and assessed partial investigation costs of \$1,200.00.
2. The Licensee's general insurance agent licence be suspended for a period of three (3) weeks.
3. The Licensee successfully complete the General Insurance Agent Code of Conduct Quiz prior to the reinstatement of his general insurance agent licence.

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

The Decision is therefore final. In accordance with Council's determination that publication of its decisions are in the public interest, this will occur, as fully contemplated by section 7.1(1) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 22nd day of November, 2016.