

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
JOEL WISNESKI
(“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 fail to complete the continuing education credits required for renewal of his 2016 general insurance agent licence?

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 2016 licence renewal application?

FACTS AND EVIDENCE

1. Completion of eight (8) mandatory continuing education credits 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 a specified definition for approval.
2. The Licensee's record indicated two carry forward credits from the 2015 licensing year.
3. He reported the following courses on the ICM licensing system to meet the 2015 – 2016 continuing education requirements:

April 28, 2016	26038	2016 IBAM Insurance Executive Panel	2 credits
April 29, 2016	26039	Clara Hughes – Being a Champion is Not about Winning	1 credit
April 29, 2016	26040	2016 E & O Mock Trial	3 credits

4. On May 27, 2016, the Licensee completed the ICM's on-line licence renewal application for his general insurance agent's licence. Based on the information reported by the Licensee for his continuing education credits and carry forwards from previous years, the Continuing Education Status showed that the requirements had been met for renewal.
5. In completing this licence renewal application, the Licensee declared that the information provided was true. He accepted the responsibility for the answers and undertakings by attesting that he understood that a false declaration on this application could lead to disciplinary action.
6. Based on the information provided by the Licensee at the time of application, his 2016 licence was renewed.
7. On June 14, 2016, the Licensee was advised that he had been selected randomly for an audit of the continuing education credits that were required to be accumulated between June 1, 2015 and May 31, 2016. The Licensee was required to provide verification of the courses completed during this time period.
8. On June 28, 2016, the Licensee responded to Council, that the courses for which he had registered: 26039 and 26040, "were not found at IBAM".
9. In his correspondence to Council on August 22, 2016, he indicated with respect to the missing paperwork for the two Insurance Brokers Association of Manitoba (IBAM) presentations that it was his first time attending and he did not realize that he needed to fill out the paperwork to prove attendance. At the Executive Panel presentation, his colleague had handed him a paper which he filled out and returned. He advised the Council that registering for the trade show allowed him to attend the seminars. He

understood that was sufficient and he did not require paperwork for each seminar to prove attendance.

10. Subsequently, Council received confirmation from IBAM that the Licensee did not sign into other sessions: the Clara Hughes presentation nor the 2016 E&O Mock Trial. Further, IBAM outlined its process, in an email to the Council August 26, 2016. This process would make it difficult for an attendee to have been unaware of the requirements to obtain the certificates for credit.

11. As he did not have supporting certificates, the Licensee provided other certificates to meet his requirement:

April 28, 2016	26038	Insurance Executive Panel	2 credits
May 28, 2016		Commercial Sales – Video Course	1 credit
May 28, 2016		Insurance Act of Manitoba Amendments	3 credits

12. Commercial Sales – Video Course had not been approved in Manitoba for CECs since December 4, 2015. Therefore it was not valid on May 28, 2016. Insurance Act of Manitoba Amendments was not accredited in Manitoba until August 8, 2016, and therefore, not eligible for the 2015-2016 continuing education year.

13. On August 8, 2016 the Licensee completed 14070 The E and O Exposure – Legal Considerations (CL Brokers) Part 1 for 1 credit.

14. Council requested copies of certificates in proof of the Licensee’s previous submissions for completed continuing education courses. Following is the result of that compliance audit:

2012 – 2013 continuing education year resulted in a negative position of one credit due to the disallowance of a repeated course:

May 22, 2013	12803	Introduction to Commercial Property Insurance	5 credits
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2013 – 2014 carry forward – 1 credit

May 22, 2014	12417	Commercial Liability – A Legal Perspective	3 credits
May 21, 2014	12418	The Commercial General Liability Policy	6 credits

2014 – 2015 carry forward 0 credits

May 26, 2015	7097	Ethics and the Insurance Professional Part One	2 credits
May 26, 2015	7098	Ethics and the Insurance Professional Part Two	2 credits
May 26, 2015	7099	Ethics and the Insurance Professional Part Three	2 credits

2015 – 2016 carry forward (-2) credits

April 28, 2016	26038	IBAM Executive Panel	2 credits
May 28, 2016	23746	Insurance Act of Manitoba Amendments	3 credits
August 8, 2016	14070	The E&O Exposure – Legal Considerations Part 1	1 credit

15. As of August 22, 2016, the Licensee was in a deficit of four credits. On August 25, 2016, he submitted 4 credits to bring his number into compliance.

ANALYSIS

The Licensee entered continuing education courses on-line to complete his CEC requirement for licence renewals.

Following a random audit by the ICM for the 2015-2016 term, the Licensee was unable to provide proof that he had completed the courses entered on the ICM's on-line system and provided an excuse that this had been the first year he had attended the IBAM conference and believed that as a registrant he could enter the courses held at the conference without obtaining documentation.

Based on the information provided by IBAM and confirmed by Council members who had been in attendance at the stated seminars, the Licensee would have been aware of the requirement and process to obtain approved credits. The explanation offered by the Licensee was dismissed as an outright attempt to deceive the Council.

Further investigation identified a deficiency over the years in meeting the requirement due to the repetition of a course in 2013. This was not permitted. As a result the carry forward calculation continued to be incorrect for each year until the audit was performed.

It is the Licensee's responsibility to complete the required number of continuing education credits and report these credits. Council noted that the effect of the disallowed course resulted in placing the Licensee in a deficit position prior to his reporting for the 2015 – 2016 year. However, the evidence supported the Licensee's clear failure to complete the courses which he entered on the ICM's system and the fabrication of information when he was unable to produce certificates as proof. The Licensee declared that all information was true and accurate in his 2016 licence renewal application knowing it to be untrue and accepting 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 beginning in 2013 by failing to complete his CECs in violation of the Licensing Rules s. 9 (1) and (2).

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

PENALTY AND FINAL DECISION

Council's Intended Decision dated October 21, 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 \$1,500.00 and assessed partial investigation costs of \$350.00.
2. The Licensee's general insurance agent 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.

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.