

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
respecting
JENNIFER E. INGIMUNDSON
(“Licensee”)

INTRODUCTION

The General Insurance Council of Manitoba (the “Council”) derives its authority from *The Insurance Act* C.C.S.M. c. 140 (the “Act”) and the *Insurance Councils Regulation 227/91*.

Following receipt of a written complaint from a member of the public outlining concerns that the Licensee had provided misleading information and ultimatums, and had failed to answer questions posed by the Complainant, 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*, and/or the General Insurance Agent Code of Conduct (“*Code of Conduct*”). During the investigation, the Licensee was provided an opportunity to make submissions.

On March 1, 2017, during a meeting of the Council, the evidence compiled during the investigation and the position of the Licensee were reviewed. Upon assessment of the evidence, Council determined its intended decision. Pursuant to sections 375(1) and 375 (1.1) of the *Act* and *Regulation 227/91*, the Council now confirms its decision and corresponding reasons.

ISSUES

1. Did the Licensee provide misleading information, incorrect information, and ultimatums?
2. Did the Licensee fail to answer the Complainant's questions?

FACTS AND EVIDENCE

1. The Complainant was the sole proprietor of a mobile business who met with clients at a location chosen by the client, not at the client's premises. The business had no

inventory. In addition, the Complainant had a homeowner's policy issued by the Licensee's Agency prior to the initial contact regarding his business needs.

2. Following an enquiry by the Complainant in 2015, and after he completed a homebased business application with the Agency, the Complainant was advised that there was no insurable risk at the moment, and that currently no extra insurance could be provided for his commercial business by the Agency.
3. On August 15, 2016, the Complainant was directed to the Licensee and a commercial insurance proposal was provided on August 31, 2016. As the policy premium exceeded his gross earnings from the business, the Complainant advised the Licensee, on September 12, 2016, that he would not be proceeding with the policy.
4. On September 14, 2016, at 8:45 PM, the Complainant carbon copied the Licensee on an email with 7 specific questions about his policies. In point 6 and 7, the client requested a calculation of "total costs, if any that [*the Agency*] would charge me" for each of the policies.
5. On September 15, 2016, the Licensee responded that there were no fees on the CGL but the cyber policy was a fully paid annual policy.
6. On September 16, 2016, the Complainant was advised by the Licensee by email that Insurer A had changed the parameters of the policy, requiring E&O in addition to the commercial liability policy. The Licensee advised the Complainant that she did not believe that he required this coverage.
7. The Licensee stated that she had found another underwriter which would cover the business at a reduced annual premium. The Complainant asked if there would be an additional charge for a non-annual payment plan and was advised that there would be a \$20.00 charge for quarterly payments and 3% for monthly payments. He noted this was the first time the additional charges were disclosed. The Licensee confirmed the calculations on September 22, 2016.
8. On September 22, 2016, the Licensee emailed a copy of the Insurer B proposal. The annual premium quoted was \$598.00.
9. On October 12, 2016, a binder was emailed for an annual charge of \$610.00. The Licensee advised the Council that he did not receive an explanation for the difference in the premium amounts. An updated and corrected document followed on October 13, 2016.
10. On November 4, 2016, the Licensee advised that monthly credit card payments were no longer permitted by Insurer B. The Complainant had a choice of a three-payment plan or an annual plan if he wanted to use his credit card.

11. When he asked about the fees for these plans, the Complainant was advised by the Licensee that the three-pay would cost less as there was no interest. She also confirmed that the Insurer B plan had the lowest cost. The Complainant questioned the difference between a three-pay plan and monthly payments, and if the Insurer B plan was cheaper, why had it not been offered initially?
12. On November 23, 2016, the Licensee advised there would be a \$10.00 charge for each of the second and third payments. Following which on November 24, 2016, the Complainant asked for confirmation of the payments.
13. In a response dated November 25, 2016, the Licensee provided an ultimatum that the Complainant either finalize payment by “days end” or both residential and commercial policies would be cancelled.
14. The Complainant also requested an answer to why the commercial policy date was October 6, 2016, and not the current date of November 25, 2016. He advised the Council that he did not receive a response to this query.
15. The Complainant approved the first payment on his credit card. He asked the Licensee to confirm in writing that his residential policy would not be cancelled and she agreed to do so that Friday afternoon. He stated that over the weekend he was concerned when she did not send confirmation.
16. On Monday, November 28, 2016, confirmation was received. The Licensee advised that she had been unable to contact the underwriter on the preceding Friday.
17. The Licensee advised that the first payment would be \$215.28 and that would be charged on November 28 or 29. However, when the Complainant checked his credit card transaction on November 30, 2016, a charge of \$471.16 appeared. He was told that the amount represented two payments but he could not reconcile the amounts.

Response on behalf of Licensee – January 27, 2017

18. As to why the Licensee had tried to sell a more expensive commercial plan, the Licensee advised that Insurer A provided a quote first and that was sent to the client. This required additional conditions. After discussions, the Complainant and Licensee determined that was not the best for the client so the risk was remarketed. The Licensee had suggested additional options before binding.
19. The initial Insurer B quote was \$598.00 with a \$1,000.00 deductible. A decision was made to take a \$500.00 deductible changing the quote to \$610.00 plus \$48.80 PST plus a \$20.00 administration fee. The Licensee noted that amount was provided to the client on October 6, 2016.
20. As to why Insurer B took more than the equivalent of two payments in November 2016 when the Complainant had been advised there would be one payment, and why he had

not been provided with the other two payment dates, the client requested the information on November 30, 2016, and the Licensee provided it on December 2, 2016. October and November payments were due to Insurer B by the time the client had agreed. The breakdown was provided to the Council.

21. The Licensee confirmed that an ultimatum was provided on November 25, 2016, by Insurer B for the insured to finalize his payment by day's end or the policy would be cancelled. The Complainant had agreed to the proposal, coverage had been bound on October 6, 2016, and no payment had been received.
22. The Complainant did not purchase an E & O policy due to the amount of revenue earned by the business.

Insurer A's correspondence to Council

23. On August 26, 2016, a quote was provided in the amount of \$1,454.00. The Commercial Underwriter noted that the quote was subject to the "Applicant having E&O in place." The amount of \$781.92 reflected the quote without crime coverage.

Insurer B's correspondence to Council

24. On September 16, 2016, Insurer B received a request for an expedited quote: "as his home insurance is pending on it." A quote was provided that day.
25. On October 7, 2016, there was a request to bind the policy effective October 6, 2016. The insured had opted for monthly pay and a signed authorization would follow. On October 12, 2016, the Payment Authorization form was received. The client had selected monthly withdrawals with an initial down payment by credit card. No VOID cheque was attached. Internal correspondence between the underwriting and direct billing departments occurred at the insurer level.
26. On November 1, 2016, an email was sent to the Licensee requesting the missing information.
27. No ultimatum was made by the insurer that payment had to be made by the end of the day on November 25, 2016.
28. On November 28, 2016, an email was sent to the Licensee in response to a phone message left on November 25, 2016, confirming that a three-pay would be available. On that date, a payment of \$471.16 was processed.
29. A review of the payment schedule showed the premium of \$610.00 (\$598.00 + \$12.00 for property floater resulting from reduced deductible to \$500.00.) plus sales tax and \$20.00 for three-pay – paid by mastercard (November 28, 2016 and February 6, 2017).

ANALYSIS

In 2015, the Complainant had a start-up business and asked the Agency which was also his homeowner's policy provider for a policy to cover his risks.

In 2016, the Complainant enquired again and was provided with an Insurer A policy quote about nine days later. This commercial quote of August 26, 2016, contained the requirement that the client have E&O coverage.

After advising that he did not want to purchase this policy on September 12, 2016, the Complainant received notice on the following day that a commercial liability policy must be purchased within three days to avoid cancellation of his homeowner's policy. After confirming that he would purchase the Insurer A policy and paying directly through credit card authorization to Insurer A, he was told that the insurer had changed the quote and that an E&O policy was required to proceed. The Licensee advised the Complainant that E&O was not required for this operation, and that she would seek a stand-alone CGL market. Subsequently, an Insurer B proposal was presented.

However, the requirement for an E&O policy to place the liability in effect from Insurer A had been part of the initial quote, not a new requirement.

Subsequently, an Insurer B proposal was presented and accepted by the Complainant with coverage bound on October 6, 2016. Due to processing issues on the part of Insurer B, payments had not been finalized by November 25, 2016.

The Licensee confirmed that an ultimatum was provided on November 25, 2016, by Insurer B for the Complainant to finalize his payment by the day's end or the policy would be cancelled. Insurer B denied that it had issued such an ultimatum.

Throughout the negotiations, the Complainant asked for a copy of the Insurer/Agency three day cancellation policy for his homeowner's policy if he did not purchase a commercial policy; why his Insurer B policy was effective October 6, and not November 25, 2016; and if Insurer B had better pricing why that was not offered before the Insurer A policy. He did not receive a reply.

The Council concluded that the Licensee violated sections s. 1, 2, 3, 4, and 7 of the *Code of Conduct*.

PENALTY AND FINAL DECISION

Council's Decision dated August 29, 2017, was delivered by registered mail to the Licensee on August 29, 2017. The Decision outlined the foregoing background, analysis, and conclusions. Having regard to the determination of the violations aforesaid, and pursuant to sections 375(1.1) (c) and (d) of *the Act* and section 7(1) of *Regulation 227/91*, the following penalties are imposed on the Licensee, namely:

1. The Licensee is fined \$750.00, and assessed partial investigation costs of \$425.00.

As part of its Decision, Council further informed the Licensee of her right to request an Appeal to dispute Council's determinations and its penalty/sanction. The Licensee expressly declined her right, chose not to pursue a statutory Appeal, and accepted this Decision.

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 the 29th day of September, 2017.