

**DECISION**  
**of the**  
**GENERAL INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**respecting**  
**TRANS CANADA INSURANCE MARKETING INC. (“Agency”)**  
**REMI PAJOT (“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 an email dated March 15, 2017, in which the Licensee identified that two Level 1 agents employed by the Agency were working from their respective homes, 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*, *its Rules*, 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 April 19, 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 Agent A and Agent B, each employed as a general insurance agent by the Agency, violate *the Act* and *its Rules* by acting as a General Insurance Agent Level 1 outside the office a general insurance agency, without supervision?
2. Did the Licensee violate the *Code of Conduct* by failing to ensure that Agent A and that Agent B, each acted as an agent inside the office of a general insurance agency, under an authorized supervisor?

## **FACTS AND EVIDENCE**

1. During all material times, the Licensee was the Operating Agent responsible to ensure that the *Licensing Rules* with respect to agency licensing and activities were enforced, and that proper and adequate supervision of employees was provided at all times.

### **Agent A**

2. On June 24, 2015, Council received an agent licence application for Agent A from the Agency. This application for a Level 1 licence showed a business address of 807 – 177 Lombard Avenue, Winnipeg, Manitoba.
3. Question 17 of that application read “I have read, understood and agree to abide by the Insurance Act, its Regulations, the applicable Licensing Rules and the applicable Agent’s Code of Conduct.” Agent A initialed this section of the application and signed the application on June 18, 2015. The application was sponsored under the signature of the Licensee on June 22, 2015.
4. A General Level 1 licence was issued on June 26, 2015. In the letter from the Council approving the licence was the requirement to: “Be supervised on site at all times by a Level 2 or Level 3 licensed agent”.
5. On March 14, 2017, in a response to the Insurance Council of Manitoba (“ICM”) Licensing Officer as to whether the organization had any branch office locations in Manitoba, the Licensee advised that there were three underwriters working from home. Agent A, a Level 1 license holder, was one of those underwriters identified by the Operating Agent on March 15, 2017.

### **Agent B**

6. On September 17, 2015, Council received an agent licence application for Agent B from the Agency. This application for a Level 1 licence showed a business address of 807 – 177 Lombard Avenue, Winnipeg, Manitoba.
7. Question 17 of that application read “I have read, understood and agree to abide by the Insurance Act, its Regulations, the applicable Licensing Rules and the applicable Agent’s Code of Conduct.” Agent B initialed this section of the application and signed the application on September 17, 2015. The application was sponsored under the signature of the Licensee on September 17, 2015.
8. A General Level 1 licence was issued on September 21, 2015. In the letter from the Council approving the licence was the requirement to: “Be supervised on site at all times by a Level 2 or Level 3 licensed agent”.

9. On March 14, 2017, in a response to the ICM Licensing Officer as to whether the organization had any branch office locations in Manitoba, the Licensee advised that there were three underwriters working from home. Agent B, a Level 1 license holder, was one of those underwriters identified by the Operating Agent on March 15, 2017.

The Licensee's Attestations

10. On April 1, 2016, the Licensee affixed his signature to the Agency Attestation Form. This form included the following:

I understand that I am required:

- to ensure that licensing rules with respect to agency licensing and activities are enforced;
- to ensure that proper and adequate supervision of employees is provided at all times;

11. On March 9, 2017, the Licensee signed and submitted the Agency Attestation Form for the 2017 licence renewal. This form included the following Attestation:

I understand that I am required:

- to ensure that proper an adequate supervision of employees, as detailed within the Rules and in the Code of Conduct, is provided at all times;
- to ensure compliance of The Insurance Act of Manitoba, its Regulations, its Rules and the Code of Conduct;

Licensee's response to Council April 10, 2017

12. The Licensee advised the Council that Trans Canada Insurance Marketing Inc. was a Management General Agent that did not deal directly with the public. It acted as underwriters for the insurers exclusively through licensed brokers within the province. Agent B handled renewal business. The Licensee questioned that based on their function as underwriters not brokers, that they dealt only through licensed brokers not the public, and that they dealt only with renewal business, whether the licence requirement was the same as a broker selling and giving advice to the public.

13. The Licensee advised that if the Council believed that a Level 2 licence was required, the agent(s) would be enrolled in the next available Level 2 course.

**ANALYSIS**

The Licensee was the Operating Agent at all material times. He signed the Level 1 licence application form for Agent A and for Agent B.

On April 1, 2016, and on March 9, 2017, the Licensee confirmed by signing the Agency Attestation Form that he would ensure that the *Licensing Rules* would be enforced and supervision provided at all times.

Council became aware that Agent A and Agent B, sponsored by the Agency, and each of which held a Level 1 licence, were engaged in agent activity from their respective homes, a violation of the *Licensing Rules*, and therefore, of s. 375(1) of *the Act*.

The *Licensing Rules*, s. 3(2), requires a Level 1 to be supervised on-site at a general insurance agency, and s. 9 of the *Code of Conduct* makes the Operating Agent responsible for that supervision.

Therefore, the Licensee violated s. 3(2) of the *Licensing Rules* and s. 9 of the *Code of Conduct*.

As a mitigating factor, and subsequent to notice by the ICM, the Licensee confirmed that the Level 1 agents would cease the off-site activity.

### **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 \$500.00, and assessed partial investigation costs of \$350.00.

As part of its Decision, Council further informed the Licensee of his right to request an Appeal to dispute Council's determinations and its penalty/sanction. The Licensee expressly declined his 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.