

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
("Council")
respecting
KENNETH R. GREAVETT
("Former 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 enquiry regarding agent activity in deleting cover from a policy without the authorization of the named insured, 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 Former Licensee had violated the *Act* and/or the General Insurance Agent Code of Conduct ("*Code of Conduct*"). During the investigation, the Former Licensee was provided an opportunity to make submissions.

On December 21, 2016, during a meeting of the Council, the evidence compiled during the investigation and the position of the Former 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 Former Licensee take instruction and delete property coverage from a policy where the person requesting the amendment was not authorized by the policy?
2. Did the Former Licensee violate confidentiality at the time of this transaction?
3. Did the Former Licensee fail to respond to the request of the Executor for the named insured?

FACTS AND EVIDENCE

4. An insurance policy (the "Policy") was issued by the Insurer and in force for the Named Insured. This Policy was in force, on or before, November 2, 2009 with the Former Agency as the agent of record.
5. On October 29, 2010, a request was made by Agent A of the Former Agency to change additional partner to Client A. A copy of the resulting endorsement showed liability extended to Client A – son. Client A was not added as an additional named insured with respect to the Policy, and there was no change to the ownership of the equipment and tools covered by the Policy. The Named Insured was the sole named insured for the property covered.
6. On September 2, 2016, the Complainant (the "Executor") attended the Former Agency and advised that the Named Insured had passed away at the end of August. The Executor requested a change in the named insured on the Policy to the Named Insured's spouse.
7. This request was forwarded to the Insurer. In addition, all livestock was deleted. The Insurer requested a Privacy Consent Form and the Named Insured's spouse's birthdate to maintain the Club 50 Discount.
8. On September 6, 2016, the Former Licensee mailed information to the Executor with respect to an executor bond.
9. On September 12, 2016, the Former Licensee requested equipment and tools in the amount of \$101,500.00 be deleted. The Insurer processed the endorsement request.
10. At the visit to the Former Agency on September 12, 2016, the Executor was advised that Client A had met the Former Licensee on September 12, 2016, and on Client A's instruction, the Former Licensee deleted a farm equipment floater from the Policy.
11. On October 8, 2016, the Executor attended the Former Licensee's office to pay for the Policy as it was due in November and he lived out of province. A note was left by the Former Agency staff for the Former Licensee to contact the Executor. As of the date of the complaint, October 16, 2016, the Executor had not received a response.
12. On October 11, 2016, a request was sent to the Insurer to amend the Named Insured to the Named Insured's Estate with notation that the Named Insured's spouse was at the home. The mailing address for the policy was amended to that of the Executor.

Former Licensee's response dated November 7, 2016 and email of November 30, 2016

13. The Former Licensee provided the following timeline:
 - a) on October 29, 2010, Client A was added as a named or additional named insured to the policy;

- b) in August 2016, the named insured passed away;
 - c) on September 2, 2016, the executor was named and asked that the policy be changed to the Named Insured's spouse;
 - d) on September 12, 2016, Client A requested his farm machinery removed from the subject policy; and
 - e) on October 11, 2016, the executor requested the name on the policy be amended to read Estate of the Named Insured.
14. The Former Licensee noted that as Client A was listed as an additional named insured and had written proof that he owned the machinery, his office was correct in making the changes.
15. The Former Licensee enclosed a letter from Client A, dated November 5, 2016, and a copy of a bill of sale, dated June 19, 2012, between Client A and his father, the Named Insured, "showing that [Client A] owned the machinery". According to Client A, the father and son farmed. The Former Licensee noted that the machinery was insured under the father's policy and Client A instructed the Former Licensee to move the machinery to his farm insurance policy to ensure that it would continue to be insured.
16. The Former Licensee confirmed by email on November 30, 2016, that he did not receive this bill of sale documentation until September 2016.

ANALYSIS

The Named Insured farmed with his son Client A from at least 2010 until his death. In 2010, the Policy was amended to cover Client A's liability only. On June 19, 2012, there was an offer by Client A to purchase land and farm equipment. This offer was signed by Client A and the Named Insured. If Client A had an insurable interest with respect to this property, it was not reflected in the Named Insured's Policy, either at that time, or between 2012 and 2016.

After the death of the Named Insured, the Executor contacted the Former Licensee to provide notice to amend the name on the Policy to the estate.

Subsequently, the Former Licensee, without prior knowledge and authorization from the Executor, deleted the farm equipment from the Estate of the Named Insured's Policy on instruction from Client A. It was on or about that time that Client A provided the offer of sale with respect to the equipment and tools.

The Former Licensee was in violation of *the Act* s. 375(1)(e) in failing to understand the rights of the named insured to property as opposed to liability cover provided for an insured named in the policy.

The Former Licensee was in violation of *Code of Conduct* s. 2 for failing to understand the rights of the named insured, s. 3 for failing to advise the Executor of the request for a change to the Policy and the fact that the amendment had been completed at Client A's request, and for failing to return the Executor's request for a phone call to discuss this matter. He was in violation of s. 4

for providing incorrect information to the Executor, and s. 5 by discussing the Policy coverage for property with other than the Executor, the representative of the Estate of the Named Insured.

By his actions, the Former Licensee deleted property from the Policy without the Executor's approval, placing the Executor in a precarious legal position if the property belonged to the estate.

PENALTY AND FINAL DECISION

Council's Decision dated September 13, 2017, was delivered by registered mail to the Former Licensee on September 14, 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 Former Licensee, namely:

1. The Former Licensee be fined \$500.00 and assessed partial investigation costs of \$350.00.

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

The 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 10th day of October, 2017.