

DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
LEE MCIVOR
(“Former Licensee”)

INTRODUCTION

The Life 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*.

In response to information received by Council concerning the Former 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*. Council undertook an investigation of the Former Licensee to determine whether he had violated the *Act*, its *Regulations*, and/or the Life Insurance and Accident and Sickness Agent’s Code of Conduct (“*Code*”). During the investigation the Former Licensee was given an opportunity to make submissions with respect to Council’s concerns.

On August 30, 2017, during a meeting of Council, the evidence compiled during the investigation was presented; upon review Council determined its Intended Decision. Pursuant to sections 375(1) and 375(1.1) of the *Act* and *Regulation 227/91*, Council hereby renders its Intended Decision and corresponding reasons.

ISSUE

1. Did the Former Licensee fail to follow sound business practices by using pre-signed, photocopied, and/or altered forms for the business of insurance, in violation of the *Act*, its *Regulations*, and/or the *Code*?

FACTS

1. This matter came to attention through an email (dated 06/01/2016) to the Former Sponsor (“Former Sponsor”) from the Former Licensee’s Assistant (“Assistant”) who advised that:

There has been non compliant things happen. one was he [the Former Licensee] wanted me to sign for him (sign with his signature). And photocopy a form that had a clients signature for next time use.

2. On March 9, 2017, Council received information from the Former Sponsor which advised Council:
 - a. A review had been conducted of the Former Licensee after receiving an allegation that he requested his Assistant to sign a form on his behalf, and photocopy a signature of a client for future use.
 - b. The review identified the Former Licensee's use of scanned signatures, altered forms, pre-signed blank forms, and one instance of a cut and pasted signature.
3. An investigation revealed that the Former Licensee used four non-compliant forms ("Forms") (pre-signed, photocopied, and/or altered) for insurance transactions involving four Manitoba clients.
4. The Former Sponsor provided to Council a chart listing the following four non-compliant Forms, and the Former Licensee's comments on that chart acknowledging that the process of using such Forms was incorrect:
 - Two Pre-authorized chequing (PAC)/automatic withdrawal (AWD)/automatic financial exchange (AFE)/banking information (EFT) forms
 - Contractual Conversion form
 - Application for policy changes – Universal Life or Universal Life Plus form
5. By email dated May 19, 2016, the Former Licensee acknowledged to his Former Sponsor that:

for client convenience these transactions outlined below have obviously been used in an incorrect manner.
6. In the chart attached to the May 19, 2016 email the Former Licensee acknowledged for each of the four Forms:

yes the client was aware of signing a blank or incomplete form and was aware of the transaction taking place prior to his/her request – this was done for client convenience and to assure it the transaction was completed in a timely manner – all transactions are initiated by the client prior to us processing their request. I realize that this process is incorrect in the manner of which it was done and will never happen again. All forms will be 100% completed prior to the client signing.

7. By letter dated September 22, 2016, the Former Sponsor advised the Former Licensee that as a result of his completion and use of non-compliant forms, the Former Licensee was required to fulfill a number of actions to amend his business practices. The Former Licensee signed an acknowledgement attached to that letter that he understood the requirements set out in that letter and the ramifications of failing to adhere to them.

8. By email dated June 5, 2017, the Former Licensee advised Council:

I have been put in a situation where my staff has taken liberties to process the paperwork in a non compliant manor.

9. By email dated July 11, 2017, a former assistant (“Former Assistant”) to the Former Licensee advised Council that:

Everything I signed was under the guidance and supervision (duress) of him. I was told I had to photocopy forms and reuse them.

10. By email dated June 16, 2017, the Former Sponsor confirmed to Council that the Former Licensee was responsible for the Forms signed by the Former Assistant.

ANALYSIS

Pursuant to section 375(1)(e) of the *Act*, acting with incompetency and untrustworthiness is prohibited. Section 1 Interests of the Client, section 4 Professionalism – Business Operations, and section 7 General Information Disclosure and Documentation, of the *Code*, mandates agents to act with integrity, competence and the utmost good faith, to adhere to sound business practices, and to ensure that the client is fully informed of all relevant information before the client makes a decision.

Council took into account that the Forms did not simply remain on file, and that transactions were processed using the Forms.

Council recognized that in his submission to Council, the Former Licensee was unwilling to accept responsibility for inappropriate actions, and chose to blame his Assistant and Former Assistant for those actions.

The Former Licensee stated to his Former Sponsor that the process of signing the blank or incomplete Forms was incorrect, and that the client was aware of signing the blank or incomplete Forms.

Upon consideration of the facts and evidence before it, Council concluded that the Former Licensee failed to discharge his professional and ethical responsibilities by using non-compliant Forms for the business of insurance. The Former Licensee's conduct demonstrates disregard for following sound business practices, and a certain degree of incompetence and untrustworthiness; the Forms were not compliant for full client disclosure and documentation.

Based on the information and evidence, Council concluded that the Former Licensee violated section 375(1)(e) of the *Act* and sections 1, 4, and 7 of the *Code* and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision dated December 1, 2017 was delivered to the Former Licensee by registered mail on December 5, 2017. The Decision outlined the foregoing background, analysis, and conclusions. Having regards to its determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to section 375(1.1)(c)&(d) of the *Act* and section 7(1) of *Regulation 227/91*:

1. The Former Licensee be fined \$3,000.00 and assessed partial investigation costs of \$1,250.00.

Pursuant to section 389.0.1(1) of the *Act*, the Former Licensee had the right to appeal this Decision within twenty-one (21) days of receipt. The Former Licensee was advised of this right in the Decision and was provided with the Notice of Appeal form, in accordance with section 389.0.1(2) of the *Act*. As an appeal was not requested in this matter, this Decision of Council is final.

In accordance with Council's determination that publication of its Decisions are in the public interest, this Decision is published, in accordance with sections 7.1(1)&(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 16th day of January 2018.