

**DECISION**  
**of the**  
**LIFE INSURANCE COUNCIL OF MANITOBA**  
**(“Council”)**  
**Respecting**  
**AIME EDMOND GRENIER**  
**(“Former Licensee”)**

**INTRODUCTION**

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

In response to information received from an insurer (“Insurer B”) relating to the Former Licensee, an investigation was conducted pursuant to sections 113(3), 375(1), and 396.1(7)(e) of the *Act*, and section 7(2)(e) of *Regulation 227/91* to determine whether the Former Licensee had violated the *Act* and/or the Life Insurance and Accident and Sickness Agent’s Code of Conduct (the “Code of Conduct”).

During the investigation the Former Licensee was given an opportunity to make submissions with respect to Council’s concerns. Upon assessment of the evidence, Council determined its Intended Decision.

As part of its Intended Decision, Council informed the Former Licensee that he may request a Hearing to dispute Council’s determinations and its penalty/sanction. The Former Licensee expressly declined his right and chose not to pursue a Hearing; he instead expressly accepted the terms of the Intended Decision and duly paid the levied fine and investigation costs.

Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council now renders its Decision and corresponding reasons.

## **ISSUE**

1. Did the Former Licensee make false declarations to an insurer (“Insurer A”) in violation of the *Act* and/or the *Code of Conduct*?

## **FACTS AND EVIDENCE**

### **Regarding “Insured A”**

1. Council received information from Insurer B alleging the Former Licensee gathered information and provided it to another agent (“Agent B”) where they acted on behalf of Insured A for a policy through Insurer B.
2. An investigation was opened to determine whether the Former Licensee violated the *Act* and/or *Code of Conduct*.
3. The investigation revealed that:
  - Dated July 2, 2018, a life insurance application through Insurer B was completed by Agent B on behalf of Insured A; this application served as replacement life insurance coverage for Insured A’s existing policy through Insurer A.
  - The Former Licensee assisted in the replacement of Insured A’s existing policy through Insurer A by furnishing Agent B with information that he (the Former Licensee) collected from Insured A’s husband, (“Insured B”).
  - The Former Licensee was duly licensed at the time when Insured A’s application through Insurer B was completed.

### **Regarding “Insured B”**

4. The Former Licensee was also investigated where he acted on behalf of Insured B.
5. Dated March 27, 2018, the Former Licensee acted on behalf of Insured B by completing a life insurance application through Insurer B; the resulting policy served as replacement life insurance coverage for an existing policy through Insurer A.

6. To section *“Life Insured Insurance History Summary”* in the application for Insurer B, the Former Licensee documented *“Yes”* to the question: *“Policy to be replaced by this application?”*
7. As per Council’s Direction and Guidance Notes for the replacement of life insurance, the Former Licensee was required to have completed two (2) separate replacement documents: a Life Insurance Replacement Declaration (“LIRD”) and a written explanation of the advantages and disadvantages of replacing the existing policy (a Written Comparative Analysis – “WCA”).
8. The Former Licensee completed a LIRD dated March 23, 2018; he provided to Insurer B the LIRD which contained information applicable to Insured B’s policy with Insurer A (premium amounts and term period).
9. In a letter received by Council on October 30, 2019, the Former Licensee advised Council:

“I don’t have any document for a WCA [Written Comparative Analysis] signed or dated as I wasn’t aware that I needed a signed and dated WCA as well as an LIRD [Life Insurance Replacement Declaration form] but this is what happened and what I do have.”

10. The investigation revealed that the Former Licensee called Insurer A on June 21, 2018 and in that call he:
  - Claimed to be Insured B – the *“policy holder”*, to gather information about the policy cancellation process at the renewal time; and,
  - Declared to the customer service representative that replacement of the existing policy with Insurer A was not intended.
11. In the June 21, 2018 phone call, Insurer A’s customer service representative asked the Former Licensee:

*“Are you replacing the policy with another provider?”*

In response the Former Licensee advised:

*“No not at all.”*

12. Council provided the Former Licensee with a recording of the call and requested that he advise if he was the caller; in response the Former Licensee advised Council:

*“Yes that is my voice and I acknowledge my error, I should’ve let my client, [Insured B] speak to the receptionist because he was with me at the time of the call.”*

13. The Former Licensee provided no evidence to Council to substantiate that Insured B was present during the phone call placed to Insurer A on June 21, 2018.

14. On October 15, 2019, Insured B provided Council staff with comments to the effect that:

- He does not recall if he was present when the Former Licensee made the June 21, 2018 phone call.

And then on October 16, 2019, he commented that:

- The Former Licensee sent him a text on June 21, 2018 so the Former Licensee would have been in his office (Insured B’s office) on June 21, 2018 when the call was placed to Insurer A.

## **ANALYSIS**

Council took no issue with the Former Licensee assisting Agent B on Insured A’s application as the Former Licensee was duly licensed at the time her application was completed.

While Council had no conduct concerns where the Former Licensee acted on behalf of Insured A, Council did identify concerns where the Former Licensee acted on behalf of Insured B.

By letter received by the Council on October 30, 2019, the Former Licensee queried why he was being questioned on his conduct where he acted on behalf of Insured B as a written complaint from Insured B had not been made to Insurer B.

Council's role and mandate is one of public protection. Council does not explicitly require a consumer complaint to investigate agent conduct. Pursuant to section 113(3) Investigation by Superintendent, of the *Act*, Council has the authority to examine and investigate the business practices of every person engaged in the business of insurance in Manitoba in order to determine whether the person has been, or is, engaged in any unfair or deceptive act or practice.

The Former Licensee acted on behalf of Insured B to replace a policy of life insurance. As defined by section 113(1)(e) of the *Act*, unfair or deceptive acts or practices in the business of insurance includes: any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing, or intending to induce, an insured to lapse, forfeit or surrender a policy or contract. And, unfair or deceptive acts or practices in the business of insurance are prohibited pursuant to section 113(2) of the *Act*.

The Former Licensee was investigated in the context of whether he provided an incomplete comparison to Insured B of the proposed Insurer B policy to the existing Insurer A policy. In the course of that investigation it was discovered, that by way of a phone call made on June 21, 2018, the Former Licensee misrepresented to Insurer A's customer service representative that he was Insured B – the “*policy holder*” and further misrepresented that replacement of the policy with another provider was not intended.

The Former Licensee's declaration on Insurer B's application dated March 27, 2018 (in the “Life Insured Insurance History Summary”) that replacement of coverage was intended, and his completion of a LIRD dated March 23, 2018, pre-date the June 21, 2018 phone call to Insurer A and therefore substantiate that the Former Licensee was acting with intentions to replace Insured B's life insurance contrary to his misrepresentation to Insurer A that he was not.

Council found the Former Licensee's misrepresentations to Insurer A (that he was the policy holder and that replacement was not intended) to be antithetical to the standards of professional conduct expected by the Council; the Former Licensee should not have advised Insurer A that he was Insured B – the “*policy holder*”, even if Insured B was present when he made the call to Insurer A and the Former Licensee should have been forthright that replacement of the policy was intended.

Regarding the phone call placed to Insurer A, Council concluded that the Former Licensee violated sections 375(1)(a) Misrepresentation and Dishonesty and 375(1)(e) Untrustworthiness, of the *Act*, and section 4 – Professionalism, of the *Code of Conduct*, and that disciplinary action is warranted.

As to the completion of the LIRD: Council reviewed the Life Insurance Replacement Declaration form (“LIRD”) completed by the Former Licensee and concluded the notations on that form provided sufficient disclosure in order for Insured B to make an informed decision as to whether he wanted to replace his life insurance.

Council is not taking disciplinary action regarding the accuracy of the notations on the LIRD; however, Council highlights that separate LIRD and WCA documents are required to maintain the policy owner’s privacy during the replacement process. To safeguard the policy holder’s privacy, the LIRD that is sent to the new insurer must not contain information regarding the existing coverage.

The Former Licensee should not have included notations on the LIRD regarding elements of the existing Insurer A policy (premium amounts and term period) as the LIRD is provided to the new insurer which is not entitled to that information. Hence the rationale for a separate a WCA to be completed and retained only by the consumer and in the agent file.

## **PENALTY AND FINAL DECISION**

Council’s Decision dated April 7, 2020 was delivered by mail to the Former Licensee on April 9, 2020. The Decision outlined the foregoing background, analysis, and conclusion on a preliminary basis. Having regards to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to sections 375(1.1)(c) and (d), of the *Act* and section 7(1) of *Regulation 227/91*:

1. The Former Licensee was fined \$1,500.00 and assessed investigation costs of \$1,200.00.

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) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 22<sup>th</sup> day of May 2020.