

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
RANDY JAGMOHAN-SINGH
(“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*.

In response to information received by Council, 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’s activity violated the *Act*, its *Regulations*, the General Insurance Agents Licensing Rules (the “*Licensing Rules*”), and/or the General Insurance Agent Code of Conduct (the “*Code of Conduct*”).

During the investigation the Licensee was notified of Council’s concerns and given an opportunity to make submissions.

On November 15, 2021 and January 26, 2022, during meetings of Council, the evidence compiled during the investigation was presented and reviewed. On February 22, 2022 the Council issued its Intended Decision.

On March 31, 2022 the Council received further facts and evidence from the Licensee and upon assessment of this additional evidence, Council determined its Revised Intended Decision.

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

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

ISSUE

The issue for Council's consideration is:

1. Did the Licensee, in his role as the Operating Agent of the Agency, violate the *Act* and/or the *Code of Conduct* by permitting four (4) Agency employees to act as an agent without holding a valid insurance agent licence in Manitoba?

FACTS AND EVIDENCE

1. At all material times, the Licensee was the Operating Agent responsible to manage the Agency.
2. On March 24, 2020, the Licensee signed an annual "AGENCY ATTESTATION FORM" which included the following excerpt:

I understand that I am required:

- *to ensure that no employee, director or partner who is not licensed acts as an insurance agent; and*
- *to ensure compliance with The Insurance Act of Manitoba, its Regulations, its Rules and the Code of Conduct;*

3. By emails dated June 21, 2021, October 5, 2021, October 12, 2021 and October 29, 2021, the Licensee's response to Council's Investigator and supporting documentation indicated that:
 - a. On October 2, 2020, Individual A spoke with an Alberta client and collected property details for the client's property located in Manitoba. Individual A was not duly licensed in Manitoba.
 - b. On November 19, 2020, Individual B spoke with a Nova Scotia client who was moving to Manitoba and quoted and underwrote his Manitoba property when Individual B wasn't duly licensed in Manitoba.
 - c. On January 11, 2021, Individual C spoke with a Quebec client who was moving to Manitoba. Individual C "*completed binding a policy after completing training to be licensed in MB before confirming that license was actually granted.*" Individual C wasn't duly licensed in Manitoba.
 - d. On April 30, 2021, Individual D spoke with an individual who lived in Nunavut and Manitoba. Individual D quoted and bound insurance on the Manitoba property after completing his product training for Manitoba; however, Individual D wasn't duly licensed in Manitoba.

- e. The four (4) identified Agency employees were not allowed to hold themselves out as agents to members of the public in Manitoba. They were licensed agents in other provinces and serviced their clients through the Agency's National Call Centre.
 - f. *"In rare situations where an advisor may inadvertently end up speaking with a client from a province for which they are not licensed, a business process is in place which requires the advisor to transfer the call to a licensed advisor."*
 - g. The Agency's business process was not followed due to human error.
4. By email dated August 13, 2021, the Licensee indicated to Council's Investigator that:
- a. Confirmed instances of unlicensed activity are disclosed to him within 7 – 11 days.
 - b. The Agency's system is not configured to automatically identify and stop an agent from quoting or binding a policy in a jurisdiction where the agent is not licensed. The Agency is exploring options for system enhancements.

ANALYSIS AND DETERMINATIONS

Sections 375(1)(b) and 375(1)(e) of the *Act* states as follows:

If, after due investigation by the superintendent and after a discipline hearing, if a hearing is required under the regulations, the superintendent determines that the holder or former holder of an insurance agent licence

(b) has violated any provision of this Act or any rule or regulation under this Act;
(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted;

The superintendent may take one or more of the actions set out in section 375(1.1), which includes suspend the licence, cancel the licence, impose a fine, and/or require the licence holder to pay some or all of the investigation costs.

In accordance with sections 2 (Competence), 7 (Manner of Service) and 9 (Unauthorized Practice of the Profession), of the *Code of Conduct*, agents owe a duty to their clients to be competent to perform the services which they undertake on a client's behalf, and they should make sure that the services available to the public are compatible with integrity and effectiveness, and mandates that agents shall assist in preventing the unauthorized practice of the profession. Operating Agents are responsible for supervision over staff and assistants to whom they delegate particular tasks and functions.

As the Operating Agent for the Agency, the Licensee was responsible for the management of the Agency and all its insurance activities, including the prohibited use of unlicensed individuals. It was the Licensee's duty to ensure that no employee acts as an agent without holding a valid insurance agent licence in Manitoba. Any activities falling within the definition of an agent as outlined in section 1 of the *Act*, must be performed by a person who is a licensed insurance agent.

Section 1 of the *Act* defines an agent as:

"agent" means a person who for compensation

(a) solicits insurance on behalf of an insurer,

(b) transmits for a person other than the agent an application for or a policy of insurance to or from an insurer, or

(c) acts, or offers or assumes to act, in the negotiation of insurance or in negotiating the continuance or renewal of an insurance contract other than a life insurance contract;

On October 2, 2020, November 19, 2020, January 11, 2021 and April 30, 2021; respectively, four (4) Agency employees, who had never held a valid insurance agent licence in Manitoba, either discussed, quoted and/or bound a policy for a Manitoba resident or for a location in Manitoba.

In his role as the Operating Agent, the Licensee was responsible for the management of the Agency and must ensure that appropriate and prudent procedures are in place to allow only licensed individuals transact insurance in Manitoba on behalf of the Agency, and to take all reasonable steps to ensure the Agency's full compliance with the regulatory framework.

Having reviewed the evidence, Council determined the following:

- The Licensee in his role as the Operating Agent facilitated unlicensed activity when he permitted four (4) Agency employees to act as agents without holding valid insurance agent licence in Manitoba;
- The Licensee was notified of the unlicensed activity which had occurred by the Agency's employees, within 7 – 11 days; however, the unlicensed activity continued; and
- The Licensee failed to adequately manage the Agency.

Based on the information and evidence reviewed, Council concluded that the Licensee violated section 375(1)(b) *any violation of any provision of the Act or any rule or regulation*

under the Act, and section 375(1)(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted, of the Act, and, sections 2 (Competence), 7 (Manner of Service) and 9 (Unauthorized Practice of the Profession) of the Code of Conduct, and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision, dated October 7, 2022, was delivered to the Licensee by mail on October 24, 2022. The Decision outlined the foregoing background, analysis, and conclusion on a preliminary basis.

Having regard to its initial determination that the foregoing violations had occurred, Council imposed the following penalty and sanction pursuant to section 375(1.1)(c) and (d) of the *Act* and section 7(1) of *Regulation 227/91*, Council hereby orders that:

1. The Licensee is fined \$8,000.00 and assessed investigation costs of \$3,000.00.

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 will occur, in accordance with sections 7.1(1) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 17th day of November, 2022.