

REVISED DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
Respecting
LAWRENCE R. FULLER
(“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 a compliance issue 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 (the “*Code of Conduct*”).

During the investigation, the Former Licensee was given an opportunity to make submissions with respect to Council’s concerns.

On September 21, 2022, during a meeting of Council, the evidence compiled during the investigation was presented. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, Council hereby renders its Revised Decision and corresponding reasons.

ISSUES

1. Did the Former Licensee fail to notify the Insurance Council of Manitoba (ICM) within 15 days, as declared on his May 30, 2019, licensing renewal application, that he was placed under investigation by a [regulatory or licensing authority] on November 21, 2019?
2. Did the Former Licensee violate the *Act* and/or *Code of Conduct* when he falsely answered “No” to being under investigation on his May 7, 2020, licensing renewal application?

FACTS AND EVIDENCE

1. The Former Licensee was a holder of a Manitoba Life licence from April 26, 2000, until May 31, 2021.
2. The Former Licensee's May 30, 2019, and May 7, 2020, Life licensing renewal applications contained Declaration sections which read:

"I declare that the foregoing information is true and I accept the responsibility for these answers and undertakings. I further understand that a false declaration on this application could lead to disciplinary action. I agree to notify Council within 15 days of any material changes to the information contained in this application."

3. In completing his May 7, 2020, licensing renewal application, the Former Licensee answered "No" to question #2 (Questions for Agent), in the context of having been under investigation since he last applied for a licence or renewal to the ICM; that question read:

"Since you last applied for a licence or Renewal to ICM have you been under investigation, or the subject of a disciplinary decision, consensual agreement, administrative penalty, or any other form of disciplinary action by any regulatory or licensing authority?"

4. By email dated January 13, 2022, ICM received notification from the Canadian Insurance Regulators Disciplinary Actions (CIRDA) that a [regulatory or licensing authority] had issued an "ORDER TO SUSPEND LICENCE", dated January 7, 2022, against the Former Licensee. The notification indicated that:
 - a. On October 9, 2020, the [regulatory or licensing authority] issued a Notice of Proposal to revoke the life insurance and accident and sickness agent licence issued to the Former Licensee and impose an administrative penalty.
 - b. On October 9, 2020, the Former Licensee requested a hearing with respect to the Notice of Proposal, and on January 7, 2022, the Former Licensee withdrew his request for the hearing.
 - c. The life insurance and accident and sickness agent licence issued to the Former Licensee was suspended until June 12, 2022, for the reasons set out in the Notice of Proposal.
5. By email dated January 26, 2022, ICM's Director, Compliance provided the Former Licensee with a copy of the [regulatory or licensing authority] Order to Suspend Licence and requested the date the [regulatory or licensing authority] placed him under investigation.

6. By emails dated January 26, 2022, February 7, 2022, May 13, 2022, and in a letter dated June 6, 2022, ICM staff requested the date the Former Licensee had been placed under investigation by the [regulatory or licensing authority]. The Former Licensee failed to respond within the requested timeframe(s).
7. By email dated June 26, 2022, the Former Licensee indicated to Council's Investigator that:
 - a. *"In terms of making the application for renewal of licence in Manitoba, at no time did we try to deceive or lie. It was an oversight on the part of our licencing and contracting department. We have a lot of provinces and contracts to keep track of and the licence department was not always up to date on what was happening everywhere. Also the last number of years have been very difficult financially and this has added a great deal of stress and confusion on our company."*
 - b. *"No clients were affected in the province of Manitoba."*
8. By emails dated June 28, 2022, July 6, 2022, and July 22, 2022, Council's Investigator followed up with the Former Licensee with regard to the date of the [regulatory or licensing authority's] investigation.
9. By email dated August 3, 2022, the Former Licensee provided Council's Investigator with a copy of the [regulatory or licensing authority's] letter dated November 21, 2019, which notified the Former Licensee of the [regulatory or licensing authority's] investigation of misappropriation of advisor's commissions, and a copy of the [regulatory or licensing authority's] Notice of Proposal to Revoke Licence, dated October 9, 2020.
10. The [regulatory or licensing authority's] Notice of Proposal to Revoke Licence indicated that:
 - a. The Former Licensee misappropriated \$256,000.00 in commissions received from the insurance company which were payable to 154 contracted insurance agents.
 - b. The funds were used for the Agency and the Former Licensee's purposes.
 - c. The Former Licensee made false or misleading statements on his renewal application.
 - d. The Former Licensee received an administrative penalty in the amount of \$2,000.00.

- e. The Director proposed to revoke the Former Licensee's Life and Accident and Sickness licence.

11. By email dated September 7, 2022, Council's Investigator provided the Former Licensee an opportunity to explain to Council why he failed to notify the ICM of the [regulatory or licensing authority's] November 21, 2019, investigation, within 15 days as declared on his 2019 licensing renewal application. The Former Licensee failed to respond to Council's Investigator.

ANALYSIS AND DETERMINATIONS

Pursuant to section 375(1)(a) of the *Act*, misrepresentation and dishonesty are prohibited as further addressed by section 9 (Dealing with the Insurance Council of Manitoba), of the *Code of Conduct* which mandates agents to respond promptly and honestly, with full disclosure, to inquiries from Council.

The Former Licensee was aware as early as November 21, 2019, that the [regulatory or licensing authority] had placed him under investigation and had a duty to report the [regulatory or licensing authority's] investigation to the ICM within 15 days as declared on his May 30, 2019, licensing renewal application.

In fact, the Former Licensee falsely answered "No" to question #2 (Questions for Agent) on his May 7, 2020, licensing renewal application, which read:

"Since you last applied for a licence or Renewal to ICM have you been under investigation, or the subject of a disciplinary decision, consensual agreement, administrative penalty, or any other form of disciplinary action by any regulatory or licensing authority?"

The Former Licensee declared on his May 7, 2020, licensing renewal application that the answers to the questions were true, accepted the responsibility for the answers and undertakings, and understood that a false declaration could lead to disciplinary action. Further, the Former Licensee agreed to notify ICM of material changes within 15 days.

During the course of the investigation, ICM staff made multiple attempts to obtain the date of the [regulatory or licensing authority's] investigation from the Former Licensee who failed to respond until June 26, 2022. Failing to respond promptly and fully to ICM staff resulted in increased investigations costs.

Based on the information and evidence reviewed by Council, Council concluded that the Former Licensee violated sections 375(1)(a) has been guilty of misrepresentation, fraud, deceit or dishonesty, 375(1)(b) has violated any provision of this Act or any rule or regulation under this Act, of *The Insurance Act* of Manitoba and section 9 (Dealing with the Insurance Council of Manitoba), of the Life Insurance and Accident and Sickness Agent's Code of Conduct, and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Revised Decision, dated January 16, 2024, was delivered to the Former Licensee by registered mail on January 22, 2024. The Revised 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 Former Licensee be assessed partial investigation costs of \$500.00.

The Former Licensee must pay the partial investigation costs in full, including any interest payable, to be eligible to apply for a licence with the Insurance Council of Manitoba.

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 is 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 8th day of March 2024.