

DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
("Council")
Respecting
KARTIK WADHWA
("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 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 Former Licensee 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 notified of Council’s concerns and was provided an opportunity to make submissions.

On July 17, 2024, during a meeting of Council, the information and evidence compiled during the investigation was presented and reviewed. 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 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.

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

ISSUES

1. Did the Former Licensee violate the *Act* and/or *Code of Conduct* when he:
 - a. gave instructions to the insurer to reinstate a pre-authorized payment plan for his client without their permission?

- b. did not fully cooperate with the insurer during their investigation of consumer's complaints against him?

FACTS AND EVIDENCE

1. The Former Licensee held Life and Accident & Sickness ("A&S") licences in Manitoba with the Sponsor, from October 13, 2021 to August 29, 2022.
2. On November 2, 2022, the Insurance Council of Manitoba ("ICM") received documents from the Sponsor's Compliance Department, which included their termination notice and a termination notice from the Former Licensee's Managing General Agent ("MGA"). The notices and a Life Agent Reporting form indicated that the Former Licensee's Life and A&S contracts were terminated for cause, due to unethical behavior, and as a result of being terminated by another provider.
3. On January 23, 2023, the MGA provided Council's Investigator with an internal Investigation Report, dated October 4, 2022, which indicated that:
 - a. On June 17, 2022, the Former Licensee emailed the Insurer with instructions to reinstate the Pre-authorized Chequing plan ("PAC") and collect all outstanding premiums for 15 consumers.
 - b. The unauthorized reinstatement of the PACs resulted in the consumers being charged fees for non-sufficient funds ("NSF") from their financial institutions.
 - c. In each instance, the consumers had previously communicated directly with the Insurer to stop their PAC.
 - d. Of the 15 consumers affected, three (3) consumers filed complaints against the Former Licensee with the Insurer. Those complaints indicated that the Former Licensee did not contact the consumer(s) prior to restarting the PACs nor had he received consent to do so. The Insurer then contacted the remaining 12 consumers, and those individuals also indicated to the Insurer that they did not provide consent to the Former Licensee to reinstate their PACs.
 - e. During the Insurer's investigation, the Insurer asked the Former Licensee whether he had received consent to reinstate the PACs. In response, the Former Licensee outlined to the Insurer how he had completed the required paperwork, including a Financial Needs Analysis ("FNA"), illustrations, and Know Your Client forms. He also indicated that the complainants had agreed to specific monthly premium amounts.
- f. The Former Licensee failed to fully respond to the Insurer's request second request for confirmation of consent, and instead, the Former Licensee forwarded his client files for their review. The Insurer determined consent had not been collected.

4. Upon review of the insurance contracts provided by the Insurer, Council's Investigator confirmed with the Insurer that 1 (one) Manitoba consumer had been affected by the Former Licensee's conduct.
5. On May 7, 2024, the Insurer indicated to Council's Investigator that a July 20, 2022, telephone conversation occurred between the Manitoba consumer and the Insurer. During this telephone call, the Manitoba consumer had indicated that she had not spoken with her agent.
6. The Insurer provided Council's Investigator with a copy of email communications, dated July 20, 2022, between the Manitoba consumer and the Insurer, where the Manitoba consumer had indicated that she had not talked with her agent.
7. Based on the telephone conversation with the Manitoba consumer, and the July 20, 2022, email, it was the Insurer's position that the Manitoba consumer did not provide authorization to the Former Licensee to reinstate her PAC and collect outstanding arrears.
8. The Insurer provided Council's Investigator with copies of NSF notices for the Manitoba consumer which indicated that they were charged \$XXX.XX in NSF fees. In addition, a copy of the November 1, 2022, Contract Termination Notice was provided.
9. On May 7, 2024, May 21, 2024, May 28, 2024, and June 20, 2024, after multiple follow-ups by Council's Investigator, the Former Licensee indicated to Council's Investigator that he had spoken to the Manitoba consumer in May [2022], and had verbal authorization from her to reinstate her PAC. He also indicated to Council's Investigator that:
 - a. He had an assistant email the Insurer to resume the PACs, as he had seen on the Insurer's portal that policies he had recently written had payments which had been returned. Most of the clients had not paid their first premium and he had properly guided them about the product in the last few days.
 - b. *"I apologize for not doing proper documentation... i [sic] got confused and just sent one email to restore the premiums by calling the clients and not properly documenting"*.
 - c. *"I had the verbal consent but the mistake I made was I didnt [sic] get a written consent from the client, I apologize for this"*.
 - d. He did not have any file notes, regarding his telephone discussions, as he thought he had used a sticky note and then shredded it.
 - e. He had called the Manitoba consumer who had indicated "...i [sic] cannot afford it anymore". He explained to her that she had the option to pause the policy and resume it later if she had cleared the arrears first.

- f. After he submitted the reinstatement request, he had advised the Manitoba consumer that she could keep the policy for a few months without paying premiums.
 - g. He co-operated with the Insurer and answered the Insurer's questions.
10. On June 20, 2024, the Former Licensee provided Council's Investigator with his file notes from the Manitoba consumer's file. The last entry was dated February 7, 2022, and indicated that the final contract had been delivered to the client. There were no notes which indicated that the Former Licensee had verbal discussions with the Manitoba consumer regarding reinstatement of the PAC or had explained an option to pause the policy if the arrears were paid.
11. On July 3, 2024, the Former Licensee further explained to Council's Investigator that prior to reactivating the Manitoba consumer's PAC, he:
- a. had a conversation with the Manitoba consumer, and she had indicated to him that she had contacted the Insurer's Customer Service department to have her payments stopped. He explained to the Manitoba consumer that the Insurer's Customer Service department was not responsible for explaining the policy to her and indicated that:
 - i. he had reviewed with her the reason she had started the contract and how it could be beneficial to her.
 - ii. advised her that she could continue to have the "*coverage through the cost of insurance being paid by the cash value sitting in the policy and she will have coverage on her life*".
 - b. emailed the Insurer to continue the premiums.

ANALYSIS AND DETERMINATIONS

Section 375(1) Investigation by superintendent, etc., of the *Act* states that:

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

(a) has been guilty of misrepresentation, fraud, deceit or dishonesty;

(b) has violated any provision of this Act or any rule or regulation under this Act;

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(e) has demonstrated his or her incompetency or untrustworthiness to transact the business of insurance agency for which the licence was granted;

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the superintendent may take one or more of the actions set out in subsection (1.1).

Section 375(1.1) Disciplinary actions by the superintendent, of the *Act* states that:

For the purposes of subsection (1), the superintendent may do one or more of the following after giving a notice of decision in writing to the licence holder or former licence holder:

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(c) subject to the regulations, impose a fine on the licence holder or former licence holder and fix a date for the payment of the fine;

(d) subject to the regulations, require that the licence holder or former licence holder pay some or all of the costs of the investigation and, where applicable, of the hearing and fix a date for the payment of the costs assessed.

In accordance with sections 1 (Interests of the Client) and 4 (Professionalism), of the *Code of Conduct*, the client's interests take priority over the agent's interests and must not be sacrificed to the interests of others. An agent must act in good faith at all times and carry on the business of insurance with a decency of purpose and a sincere intention to act in a manner consistent with the client's best interest. An agent must acquire an appropriate level of knowledge relating to his particular business and meet professional ethical standards. He must act with honesty, integrity, fairness, due diligence, skill.

It was the Insurer's position that the Former Licensee requested reactivation of PAC withdrawals, including collection of arrears, without consent, for 15 of the Former Licensee's clients, including one (1) Manitoba consumer. The reinstatement of the Manitoba consumer's policy led to multiple NSF fees, and the eventual termination of the policy in November 2022.

When answering Council's Investigator's questions, the Former Licensee provided conflicting information on who had requested the reinstatement of the PACs. In addition, he indicated that he had verbal conversations with the Manitoba consumer regarding the PAC reinstatement and collection of arrears. Review of the file notes provided by the Former Licensee indicated that the last transaction was the delivery of the policy on February 7, 2022.

By way of his own evidence, the Former Licensee admitted that the Manitoba consumer had advised him that she could not afford the policy and contacted the Insurer to stop the payments. After this conversation, the Former Licensee reinstated the PAC.

By failing to properly document the client file, and without a client signature providing authorization to reinstate the PAC, the Former Licensee was unable to support his statements that this had occurred.

The Former Licensee indicated that he had cooperated with the Insurer's investigation when he answered all their questions. Contrary to the Former Licensee's statement, the Insurer indicated to Council's Investigator that the Former Licensee failed to answer

whether he had obtained consent to reinstate the PACs, and instead, forwarded the client files for their review.

Council found that by reinstating a payment plan, without the consent of the policyholder, the Former Licensee did not act in a manner consistent with the client's best interests, was untrustworthy, dishonest, and did not align with the professional and ethical standards of a licensed insurance agent.

Further, Council had concerns with the Former Licensee's contradictory statement that he had cooperated with the Insurer's investigation, as he did not answer the Insurer's question regarding whether consent had been obtained to reinstate the PAC and collect the arrears.

Based on the information and evidence reviewed by Council, Council concluded that the Former Licensee violated sections 375(1)(a), 375(1)(b), and 375(1)(e), of the *Act* and sections 1 (Interests of the Client) and 4 (Professionalism), of the *Code of Conduct* and determined that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision dated January 29, 2025, was delivered to the Former Licensee by registered mail on January 30, 2025. 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 375(1.1)(d) of the *Act* and section 7(1) of *Regulation 227/91*:

1. The Former Licensee be fined \$500.00 and assessed partial investigation costs of \$2,500.00.
2. If at any time in the future, the Former Licensee applies for a licence in the Province of Manitoba, the application will be reviewed by the Life Council to determine suitability for a licence.

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 17th day of March, 2025.