



# **DECISION**

## **IN THE MATTER OF THE LIFE INSURANCE COUNCIL OF SASKATCHEWAN ("Council")**

### **MARKET PRACTICES COMMITTEE ("the Committee")**

### **RESPECTING**

### **JOVITA NATIVIDAD MANALO ("the Licensee")**

The Committee is authorized under Council's Bylaw 2, section 2-3, to investigate complaints and adjudicate or mediate disputes respecting alleged non-compliance with *The Insurance Act* (the "Act"), *The Insurance Regulations* (the "regulations") or Council's Bylaws by applicants, licensees or persons who are required to be licensees pursuant to section 5-31(3)(i) of the regulations, and to make decisions respecting penalties and other charges pursuant to section 5-31(3)(k) of the regulations.

The Compliance and Enforcement department of the Insurance Councils of Saskatchewan ("Compliance") investigated the actions of the Licensee in relation to the fact that her errors and omissions ("E&O") insurance coverage lapsed for a period of two (2) days, from September 11 to 13, 2023. The Licensee also failed to respond to correspondence from Compliance.

A Notice of Proposed Action dated April 23, 2024 enclosing a Consensual Agreement and Undertaking ("the Agreement") was served on the Licensee on April 24, 2024. The Agreement notified the Licensee that fines were being sought against her for breaching Council's Bylaws.

The Licensee chose to submit written representations to the Committee pursuant to section 10-11(3)(b) of the Act respecting why she felt the actions identified in the Agreement should not be taken. She submitted her written representations to Council via e-mail on May 2, 2024.

On May 23, 2024, in accordance with section 10-11(10)(a) of the Act, the Committee met to consider the Licensee's written representations regarding the misconduct identified below:

**MISCONDUCT AND BYLAW VIOLATIONS BY THE LICENSEE:**

**The Act, section 5-26 Financial security required for insurance intermediaries**

(1) Every business and individual that applies for or holds an insurance intermediary's licence shall meet and maintain the prescribed financial security requirements.

**Regulation 5-10 Financial security – insurance intermediaries and adjusters**

(1) For the purposes of subsections 5-26(1) and 5-47(1) of the Act:

(a) every business that applies for or holds an insurance agent's license for life, accident and sickness, or life and accident and sickness insurance shall maintain and provide annually proof of a valid policy of errors and omissions insurance that:

(i) provides a minimum of:

(A) \$1,000,000 coverage with respect to any one occurrence and a minimum aggregate limit of \$1,000,000 with respect to all occurrences within a year; and

(B) \$1,000,000 extended coverage for loss resulting from fraudulent or dishonest acts;

(ii) covers the insurance activities of the licensee; and

(iii) is underwritten by an insurance company licensed to do business in Canada;

**Bylaw 3-1 Licences and obligations**

(4) A licence imposes on the licensee, and if a business, the designated representative, obligations including but not limited to, the following:

(c) to immediately notify [Council] of:

(i) the failure to maintain the prescribed financial security requirements (errors and omissions insurance or the bond), pursuant to sections 5-10 and 5-23 of the regulations.

**Bylaw 4-1 Professional misconduct**

(1) For the purposes of the Act, the regulations and these bylaws, professional misconduct is a question of fact but includes any matter, conduct or thing, whether or not disgraceful or dishonorable that:

(c) is a breach of the Act, the regulations of these bylaws.

**Bylaw 4-1 Professional misconduct**

(2) Without limiting the generality of subsection 4-1(1), a licensee may be guilty of misconduct if the licensee:

(u) fails to reasonably respond to inquiries from LICs or ICS.

**REASONS FOR THE DECISION:**

The Committee reviewed the Investigation Report dated March 22, 2024, the Licensee's written representations and the Rebuttal submitted on behalf of Council dated May 17, 2024. In her written representations, the Licensee stated that she could not respond to correspondence from Compliance sent on January 11, 2024 in relation to the lapse in her E&O coverage due to "unforeseen circumstances". She also claimed that subsequent travel to a location with limited internet service prevented her from replying to further correspondence.

The Committee notes that the Licensee had a period of at least eleven (11) days before she left on her trip in which she could have responded to correspondence received from Compliance. While the Licensee stated that she was unable to access her e-mails during that period prior to her trip, she provided no further explanation in that regard. The Committee notes that the e-mail address used by Compliance to correspond with the Licensee was confirmed to be her current e-mail address by the Licensee in her written representations. The Committee notes that licensees should be checking their e-mails on a regular basis to ensure they receive and respond to communications sent by Council, their clients, and other insurance industry organizations.

The Licensee argued that she is not currently working in the insurance business and therefore is unable to pay the penalties being sought by Council. The Committee notes that the Licensee stated that she intended to cease working in the insurance business which is why she allowed her E&O coverage to lapse. However, in light of the fact that she reinstated her E&O coverage, the Committee finds it likely that she intends to continue to work in the insurance business in the future.

The Committee notes that it is incumbent on all licensees in Saskatchewan to ensure that they maintain continuous E&O coverage to be compliant with the legislation. The Committee also observed that while the Licensee did ultimately obtain backdated E&O coverage, she did not immediately notify Council of the lapse in coverage, contrary to Bylaw 3-1(4)(c)(i).

After considering all of the submissions and evidence in this case, the Committee finds that the Licensee violated Bylaw 3-1(4)(c)(i), and consequently Bylaw 4-1(1)(c) when she failed to notify Council immediately that her E&O insurance coverage had lapsed. The Committee also finds that the Licensee failed to respond to correspondence from Council, contrary to Bylaw 4-1(2)(u). The Committee unanimously agrees that the fines and costs of investigation recommended in the Investigation Report should be confirmed.

**THE COMMITTEE HEREBY ORDERS THAT:**

1. The Licensee pay the following fines:

<b>Bylaw 4-1(1)(c)</b> for failure to notify Council of E&O lapse	\$300.00
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<b>Bylaw 4-1(2)(u)</b> for failure to respond to Council	<u>\$300.00</u>
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<b>Total:</b>	<b>\$600.00</b>
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Costs of investigation: 4 hours at \$110.00 per hour	<u>\$440.00</u>
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<b>Total fines and costs:</b>	<b>\$1,040.00</b>
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2. The Licensee must **pay the fines and costs within 30 days of being served with this Decision**, pursuant to section 5-39(3) of the Act.

Dated at Saskatoon, in the Province of Saskatchewan, this 29 day of May 2024.

***Originally signed by:***

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Som Houmphanh, Chair  
Market Practices Committee  
Life Insurance Council of Saskatchewan

**Section 5-39(3) of the Act**

If a penalty imposed against a holder of an insurance intermediary's licence pursuant to subsection (2) is not paid within 30 days after the holder is served with the written notice of the penalty and the decision of the Superintendent is not appealed, the licence is automatically suspended immediately following the last date for paying the penalty or appealing the decision, whichever is later, and remains suspended until the penalty is paid or the licence expires.