

DECISION

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

MARKET PRACTICES COMMITTEE ("the Committee")

RESPECTING

Kimberly (Kim) Cordeta Gesmundo ("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 the Life Insurance Council's Bylaws by applicants, licensees or persons who are required to be licensees pursuant to clause 5-31(3)(i) of the regulations, and to make decisions respecting penalties and other charges pursuant to clause 5-31(3)(k) of the regulations.

The Compliance and Enforcement Department of the Insurance Councils of Saskatchewan received notification from the Market Conduct Auditor of Council that the Licensee failed to respond to correspondence from Council and also failed to provide Continuing Education certificates which were requested as a result of an audit being conducted.

A Notice of Proposed Action dated April 18, 2024, enclosing a Consensual Agreement and Undertaking ("the Agreement") was served on the Licensee on April 29, 2024. The Agreement notified the Licensee that fines were being sought against her for breaching Council's Bylaws. The Licensee responded to Council in accordance with the timelines set out in the Agreement.

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. After receiving these representations, the investigator prepared a Rebuttal including the Licensee's responses, which was then provided to the Licensee and presented to the Committee.

On August 20, 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:

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 or 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.

REASON FOR THE DECISION:

The Committee reviewed the Investigation Report dated April 2, 2024, the Licensee's Written Representations, and the Rebuttal submitted on behalf of Council dated July 15, 2024.

In her written Representations, the Licensee stated that she had moved to Regina, SK and it was her sister that informed her that a package had been sent to her address in Moosomin, SK. She further stated that she was preoccupied with her move in August of 2023 and has been on medical leave since February 28, 2024. For these reasons, she overlooked Council's emails until receiving correspondence by mail on April 29, 2024.

The Licensee stated that after she received written correspondence from Council in relation to this matter, she provided proof of having met her CE requirements.

The Committee notes that while the Licensee did meet her CE requirements, she did not respond to correspondence from Council. The Committee confirms that all Licensees are required to respond to Council in accordance with the legislation.

Further, the Committee pointed out that the evidence provided by the licensee respecting her move and medical concerns were outside of the time frame of the failure to respond to the Continuing Education Audit.

After considering all of the evidence and submissions in this case, the Committee finds that the Licensee violated Bylaw 4-1(2)(u) when she failed to respond to correspondence from the Auditor in relation to her CE records. The Committee unanimously agrees that the fine recommended in the investigation Report should stand.

THE COMMITTEE HEREBY ORDERS THAT:

The Committee understands that the Licensee has decided not to renew her licence and therefore the fine and costs of investigation will not be pursued at this time. In the event that the Licensee chooses to obtain her licence in the future, she will be required to pay the total fine and costs of investigation in the amount of \$520.00 and her Continuing Education requirements will undergo further review.

Dated at Saskatoon, in the Province of Saskatchewan, this sept. 23 day of August 2024.

Originally Signed By:

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