

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
WILLIAM (BILL) THOMAS GRIEVE
(“Former 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 Former Licensee’s activity violated the *Act*, its *Regulations* and/or the General Insurance Agent’s Code of Conduct (“Code of Conduct”). During the investigation the Former Licensee was notified of the information submitted to Council and given an opportunity to make submissions.

On September 26, 2018, during a meeting of the Council, the evidence compiled during the investigation was presented and reviewed. Upon assessment of the evidence, Council determined its Intended Decision. Pursuant to section 375(1) and 375(1.1) of the *Act* and *Regulation 227/91*, the Council hereby renders its Decision and corresponding reasons.

ISSUES

The issues for Council’s consideration were:

1. Did the Former Licensee violate Section 369(1) of the *Act* - Not to act without licence?
2. Did the Former Licensee provide false information to the Council in completing both his 2016 and 2017 licence applications?

3. Did the Former Licensee fail to advise the Council of multiple disciplinary actions, in other jurisdictions, within 15 days as required by the Agency Attestation and licence renewal application?
4. Did the Former Licensee provide false statements to Council in the course of the investigation?
5. Did the Former Licensee violate section 391 of the *Act* by Holding Out to the public as Canadian Farm Insurance Services o/a Canadian Special Risks while only licensed in Manitoba as Canadian Farm Insurance Services Inc.?
6. Did the Former Licensee violate section 11 of the *Code of Conduct* when he failed to maintain and preserve material information which had been utilized in the negotiation, continuance and maintenance of an insurance contract?

FACTS AND EVIDENCE

1. The Former Licensee is a resident of Alberta.
2. During all relevant times that the Former Licensee did have a valid Manitoba Licence, he was the Operating Agent for Canadian Farm Insurance Services Inc. (the "Agency").
3. In Alberta and British Columbia, the Former Licensee holds a personal licence and is the Designated Representative for the Agency's corporate licence.
4. The Former Licensee was unlicensed in Manitoba from June 1, 2013 to May 31, 2017.
5. On December 29, 2010, the Former Licensee completed a Designated Representative/Corporate General Insurance Agent/Broker Licence application and answered "no" to question 22: *"Have you, or the agency, or any directors, partners or officers of the firm partnership or corporation had an insurance license refused, suspended or terminated for cause, or been subject to any disciplinary action by any regulatory authority?"*

The Former Licensee indicated that *"William T. Grieve was the subject of an Administrative Penalty issued by the Superintendent of Insurance, Province of Alberta, on May 6, 2010 as penalty number 14.35-210-976."*

6. Further, the Former Licensee made the following declaration: *"I the undersigned understand and declare: that all statements and answers to the questions contained in this application are true and correct"*.
7. On March 16, 2012, the Former Licensee signed the annual Agency Attestation Form and attested:

- To ensure that licensing rules with respect to agency licensing and activities are enforced.
 - To report any changes (e.g. change of legal and/or trade name) to Council on an ongoing basis.
8. On August 31, 2016, the Former Licensee submitted an Operating Agent or Designated Representative Licence application, and answered screening questions 18(a) and (b) as follows:

“18.) In any jurisdiction:”

“(a) Have you ever been refused registration or licensing, or had a licence to deal with the public suspended, cancelled or revoked?”, the Former Licensee answered “Yes”.

“(b) Are you presently under investigation, or have you ever been subject to any disciplinary action by any Regulatory Authority or Association?”, the Former Licensee answered “No”.

Included with his 2016 application, the Former Licensee provided a written statement, dated June 21, 2016 which indicated that:

“Our sponsor of our Alberta license cancelled sponsorship without notice. It was our understanding that the sponsorship would continue until new license period. Also the Alberta Insurance council does not notify the broker, thus we were operating unaware that the Alberta Council had suspended our license. Insurer A has now sponsored our Alberta License & will sponsor us across Canada.”

9. Further, the Former Licensee made the following declaration: *“I declare that the information contained in this application, including attachments, is true and complete.”*, and *“I also understand that it is an offence under The Insurance Act to make a material misstatement to the ICM.”*
10. On September 23, 2016, ICM’s Licensing department emailed the Former Licensee and indicated that they had not received the outstanding information to complete the licence application. The original documents had been returned to the Former Licensee and the file was closed. The Licensing department indicated *“You are not licensed to act or offer to act as an agent.”*, and *“An applicant for a Manitoba licence is prohibited from transacting the business of insurance and/or acting within the definition of an agent or adjuster until such time as the Manitoba licence has been processed.”*
11. On March 30, 2017, ICM’s Licensing department received a package from the Former Licensee which included:
- a. Insurance Agent’s Licence application, dated March 28, 2017;

- b. General Operating Agent's or Designated Representative Licence application, dated March 27, 2017;
 - c. The Former Licensee's written statement dated March 27, 2017, which indicated: *"an Agreed Statement of Facts between Canadian Farm & the Alberta Insurance Council whereas Insurer B withdrew their sponsorship & failed to give Canadian Farm Notice."*;
 - d. AIC's letter dated February 7, 2017, to the Agency, confirming that their General Insurance Council had reviewed and accepted the Agreed Statement of Facts and Joint Submission relating to Case #67952 – compensating an agent for sales made while the agent was unlicensed;
 - e. AIC's Agreed Statement of Facts and Joint Submission – Case #67952, signed by the Former Licensee on December 12, 2016;
 - f. AIC's Decision dated February 1, 2017, regarding Case #67952, to fine the Agency \$600.00;
 - g. AIC's letter dated February 7, 2017 to the Former Licensee, confirming the General Insurance Council has reviewed and accepted the Agreed Statement of Facts and Joint Submission relating to Case #67787 – Former Licensee was compensated for acting as a general insurance agent without holding a valid and subsisting Certificate of Authority;
 - h. AIC's Agreed Statement of Facts and Joint Submission – Case #67787, signed by the Former Licensee on December 12, 2016; and
 - i. AIC's Decision dated February 1, 2017, regarding Case #67787, to fine the Former Licensee \$600.00.
12. On the 2017 Insurance Agent's Licence application, the Former Licensee answered "no" to screening questions 16: *"In any jurisdiction, at any time, have you, or any business with which you were/are involved been: (a) Refused registration or licensing, or had a licence to deal with the public suspended, cancelled or revoked by any Regulatory Authority or any Regulatory Association?"*, and *"(b) Under investigation, or have you ever been subject to any disciplinary action by any Regulatory Authority or Regulatory Association?"*

(Note: *The 2017 Insurance Agent's Licence application was submitted but not required as the Former Licensee was only required to submit an Operating Agents Licence application.*)

13. On the 2017 Operating Agents or Designated Representative Licence application, the Former Licensee answered "yes" to screening questions 18: *"In any jurisdiction: (a) Have you ever been refused registration or licensing, or had a licence to deal with the public suspended, cancelled, or revoked?"*, and *"(b) Are you presently under investigation, or have you ever been subject to any disciplinary action by any Regulatory Authority or Association?"*

14. Further, the Former Licensee made the following declaration on both the 2017 Insurance Agent's Licence application and 2017 Operating Agent or Designated Representative Licence application: *"I declare that the information contained in this application, including attachments, is true and complete."*
15. By email dated April 6, 2017, ICM's Licensing department contacted the Former Licensee and requested confirmation on whether the Former Licensee had sold any insurance policies to Manitoba clients while unlicensed. The Former Licensee responded by email on April 6, 2017, and indicated to the Licensing department *"No, I have not sold insurance in Manitoba while unlicensed."*
16. The Former Licensee was issued a General Operating Agent's licence on June 1, 2017.

Unlicensed Activity

17. By email dated October 31, 2016, ICM's Licensing department received information from a Manitoba broker that the Agency may be selling insurance products to Manitoba residents, while unlicensed, and provided copies of two renewal statements effective October 27, 2016, issued by the Agency to Client A. The Manitoba broker indicated to ICM's Licensing Department that Client A told him he had purchased the policy from the Agency over the internet for the last 4 years, and that many welders in Manitoba use this insurance.
18. On December 5, 2017, the Former Licensee indicated to Council that *"We were not licensed in Manitoba from June 1, 2013 to May 31, 2017 & did not receive any commissions for Manitoba business during that period."* The Former Licensee further indicated that on his 2016 Operating Agents application *"I answered yes to 18 (a) 'had our Alberta License [sic] suspended' and 18 (b) I answered no as we were not under investigation at that time. However I did not read the entire question that further stated 'have you been subject to any disciplinary action' I should have answered that question with a yes as well."*
19. When provided with a copy of Client A's renewal statement and asked for his comments, the Former Licensee indicated that *"In August of 2016, we moved our welding program to Insurer A. Each month, we would send out all the renewal notices for the following month. In September, renewal notices went out & included in the September notices was (a similarly named company located in), Alberta. We suspect that renewal notices went out to Client A in error at that time. Accounting does not show any accounting, application nor policy for Client A."*
20. When questioned whether the Agency had ever written a policy for Client A, the Former Licensee indicated to Council in his December 28, 2017 email that he *"was able to locate a file for Client A with 2 policies"*. Both policies, a Commercial General Liability ("CGL") policy and Welders Equipment and/or Machinery policy, had been issued on October 9, 2012 - while the Former Licensee held a Manitoba licence.

21. By emails dated January 4, 2018 and February 6, 2018, Insurer B indicated to Council that the Welders Equipment and/or Machinery policy for Client A had been renewed by the Agency on October 9, 2013, while the Former Licensee was unlicensed in Manitoba.
22. By email dated January 5, 2018, the Former Licensee indicated to Council that the failure to renew his 2013 licence was an oversight and that he never bothered to reinstate as he was not doing business in Manitoba.
23. On March 16, 2018, MGA A provided Council with a spreadsheet which indicated that through the Agency, the Former Licensee placed six (6) Manitoba policies between June 1, 2013 and May 31, 2017, while the Former Licensee was unlicensed.
24. By email dated March 23, 2018, Broker A provided Council with policy declaration pages for the six (6) policies insured with MGA A. The declaration pages appeared to be signed by the Former Licensee, however, the declaration page for Client A was unsigned.
25. By emails dated April 5, 2018 and August 13, 2018, Insurer A, who was the Former Licensee's sponsor, indicated to Council that *"it appears as though Insurer A wrote two policies in the relevant time period to insureds with Manitoba addresses. Insurer A provided declaration pages and applications for Client B and Client C. Both policies were effective September 2016 and renewed in 2017 by the Agency.*
26. By email dated April 6, 2018 the Former Licensee indicated to Council that *"I previously stated that we did not receive any commissions in that period for business in Manitoba. That was wrong. As mentioned, we had transferred all data from our manual system to our new electronic system in 2016. I could not locate the old files on our new system. I should have been more diligent in my search by location our old files that are in storage. I note that the total premiums of those clients is \$6,660 with 20% of \$1,332. This is made up of 5 clients. In 2017, we had approximately 15 clients from Manitoba. There could be more, however as the old manual did not update properly, I will have to manually pull each file & I can certainly do that, however it will take some time."*
27. By email dated April 10, 2018, the Former Licensee provided Council with a copy of a February 16, 2018 email string between himself and the Senior Vice President, Branch Manager of Insurer A, in which the Senior Vice-President asked for a list of any accounts Insurer A may have written with the Former Licensee in Manitoba between October 1, 2016 and May 31, 2017. The Former Licensee had responded with a list of 15 policies and indicated to the Senior Vice-President that *"Insurer A did not insure any Manitoba clients prior to June 1/2017."* Of the 15 policies indicated on the list provided to the Senior Vice-President, two policies dated September 8, 2016 and September 12, 2016 had been written while the Former Licensee was unlicensed.

28. When questioned further by Council's Investigator regarding the June 1, 2017 date, the Former Licensee indicated that the date was a typo and that he had meant 2016.
29. By email dated June 22, 2018, MGA B provided Council with a copy of an Excel spreadsheet *"which lists all the Manitoba risks we have been able to identify – linked to the operations of Canadian Farm Insurance Services (Bill Grieve)."* The spreadsheet indicated that through the Agency, the Former Licensee placed seven (7) Manitoba policies while unlicensed and earned commissions in the amount of \$3,052.10.
30. By email dated July 11, 2018, the Former Licensee provided Council with seven (7) declaration pages and six (6) applications for the policies placed through MGA B. In his email, the Former Licensee indicated to Council that the *"Client D application is missing from the file."*

Failure to disclose the Alberta Insurance Council ("AIC") and the Insurance Council of British Columbia ("ICBC") investigations and disciplinary decisions

31. By email dated December 7, 2017, the AIC provided Council with a copy of the Decision of their General Insurance Council dated December 23, 2009 which indicated that the AIC had issued the Former Licensee with an order to pay \$800.00 in civil penalties. AIC's investigation found that the Former Licensee did not have the required amount of CE credits in 2007 & 2008 as reported on his renewal application.
32. In February 2016, ICM's Licensing department received notification from the Canadian Insurance Regulators Disciplinary Actions ("CIRDA") of a February 16, 2016 ICBC Decision and Order for the Agency, which indicated that:
- a. ICBC suspended the Agency's BC licence due to premium remittance concerns and failure to be licensed in their home province of Alberta.
33. By email dated January 5, 2018, the Former Licensee indicated to Council that *"In regard to the disciplinary actions, it was the Insurance Council of BC that alerted me to the fact that our Alberta license had been suspended without notice. Thus we worked closely with BC & Alberta; & Insurer A picked up our sponsorship. In that regard, we did report that with the Agreed Statement of Facts with the penalty of \$600 & in hind sight, I should have gone into greater detail."*

Holding Out

34. On September 23, 2016, ICM's Licensing department emailed the Former Licensee and indicated ICM *"has received your incomplete licence application package. As you have not provided the full information, the ICM has returned the full package to the home address. **You are not licensed to act or offer to act as an agent.**"*, and ***"Until the licence is issued, you must not act as an agent."*** The Former Licensee was provided with a list of six (6) outstanding requirements. One requirement was that a copy of the Manitoba Articles of Incorporation and/or

Business Registration from the Manitoba Companies Office was provided for the following names:

- a. Canadian Farm Insurance Services; and
- b. Canadian Special Risks

35. On March 30, 2017, ICM's Licensing department received a new Operating Agents or Designated Representative Licence application signed by the Former Licensee on March 27, 2017 which indicated that the Trade Name used by the Agency or Firm was "*Canadian Special Risks*".

36. By emails dated April 6, 2017 and April 7, 2017, ICM's Licensing department indicated to the Former Licensee that:

- a. A copy of the Manitoba Business Name Registration for Canadian Special Risks was required;
- b. If the Former Licensee wanted to proceed *without* (emphasis added) the Trade Name, a written statement from the Former Licensee was required indicating that he would not be conducting any insurance business in Manitoba under the name *Canadian Special Risks*;
- c. If the Former Licensee wanted to add the Trade Name at a later time, a fee of \$70 would apply; and
- d. An agent can only hold out in the manner in which they are licensed with ICM as outlined in section 391 of the *Insurance Act of Manitoba*. [the definition was provided to the Former Licensee]

37. By email dated April 10, 2017, the Former Licensee indicated to ICM's Licensing department that he wanted to proceed without the Trade Name. The Former Licensee provided the following statement:

- a. "*Canadian Farm Insurance Services Inc will NOT use our Trade Name 'Canadian Special Risks' in Manitoba until such time that we register it in Manitoba. We further understand that there is an additional cost to register our trade name at a later date.*"

38. On February 12, 2018, the Former Licensee affixed his signature to the Council's Agency Attestation Form. That form noted the following:

I understand that I am required:

- to ensure compliance of *The Insurance Act* of Manitoba, its Regulations, its Rules and the Code of Conduct;
- to report any material changes to the ICM within 15 days (Council considers a material change to include **any** material fact which may influence Council to amend, or review a licensee's licence(s); and

- to ensure that the agency, and no employee of the agency, represents or holds him or herself out to the public in any other name than is stated on their licence.

Confirmation:

I confirm that all licensed agents conduct business solely under the above listed names(s). I further confirm that prior to acting within the definition of an agent and/or conducting business under any other legal and/or trade name, **including shortened versions of the name(s)**, the licence(s) must immediately be amended with the ICM.

39. By email dated February 21, 2018, the ICM Manager, Licensing & Administration, contacted the Former Licensee and indicated:

- a. *“The ICM requires you to immediately cease holding out as Canadian Special Risks for General Insurance Business.”*

40. By email dated February 22, 2018, the Former Licensee responded to ICM’s Manager, Licensing & Administration, and indicated *“Yes, we will remove Canadian Special Risks from any advertising in Manitoba until such time that the trade name is registered in Manitoba. We will start the process immediately.”*

41. On April 18, 2018 and August 24, 2018 Council’s Investigator conducted a website search using the keywords *“welding insurance Manitoba”*. The third entry was a site titled Western Canada Welding Insurance <http://weldinginsure.ca/>, and noted the following information:

- a. *“...that’s why **CANADIAN SPECIAL RISKS*** has developed a liability plan suited specifically to welders working in the **Canadian Prairies**. Our Western Canada Welding Insurance program offers some of the most competitive rates available today, offering you peace of mind, both on site and off site...”;*
- b. *Our online application form allows us to quickly prepare a quote for an insurance package tailored to your personal needs... or call us with your questions, toll free from anywhere in Canada;*
- c. *The website includes an outline of the provinces Alberta, Saskatchewan and Manitoba; and*
- d. *The online and pdf application forms note “Canadian Special Risks” (Registered Trade names of Canadian Farm Insurance Services Ltd.).*

42. As of June 1, 2018, the Former Licensee’s licence has not been amended to include o/a Canadian Special Risks.

ANALYSIS

Sections 369(1) and 375(1)(a) and (e) of *the Act*, and section 9 of the Code of Conduct state that no person shall act, or offer or undertake to act, as an insurance agent in this province without having first obtained a licence under this *Act*. The *Act* also prohibits misrepresentation, deceit or dishonesty, incompetency and untrustworthiness.

The Former Licensee explicitly stated to Council, both to the Licensing department arising from the licensing application and to Council's Investigator in the course of the investigation, that he had not sold insurance in Manitoba while unlicensed. In fact, through the Agency, the Former Licensee wrote 15 policies - six policies through MGA A, seven policies through MGA B and two policies through Insurer A, and received commissions while unlicensed, thus violating sections 369(1) and 375(1)(a) and (e) of the *Act*.

When completing his licence applications, the Former Licensee failed to disclose, as required in ICM's screening questions, information relating to his being under investigation or subject to disciplinary actions in another jurisdiction. On his 2010 licence application, the Former Licensee did not disclose AIC's investigation and Decision regarding misrepresentation of CE's, and on his 2016 licence application the Former Licensee failed to disclose the 2016 ICBC investigation, suspension and automatic cancellation of the Agency's Corporate licence. Although the 2016 licence application was returned incomplete and no licence was issued, the Former Licensee declared the information contained within the application, including attachments, was true and complete.

ICM's Licensing department received and reviewed the Former Licensee's licence applications dated August 31, 2016 and March 27, 2017 and indicated that a copy of the Manitoba Articles of Incorporation and/or Business Registration from the Manitoba Companies office for the name Canadian Special Risks was required. The Former Licensee stated that Canadian Farm Insurance Services Inc. would not use the trade name Canadian Special Risks in Manitoba until such time that they register it in Manitoba, however, a website search using the key words "*welding insurance Manitoba*" provided evidence to the contrary and confirmed violation of section 391 of the *Act*.

Throughout the investigation, the Former Licensee had difficulties providing Council's Investigator with an accurate number of policies written, and the dates they were written, during his unlicensed period. The Former Licensee had indicated that data had been transferred from a manual system to a new electronic system in August 2016, however, failed to provide Council with the two policies written with Insurer A in September 2016, and renewed the following year, on their electronic system. During Council's investigation, the Former Licensee provided copies of the applications and declaration pages of the policies written through MGA B – however, the Former Licensee indicated that the "*Client D application is missing from the file.*" The failure to provide an accurate number of policies written, and the all material information which had been utilized in the negotiation, continuance or maintenance of an insurance contract supports the violation of Section 11 – Safekeeping and preserving of property and file records, of the *Code of Conduct*.

PENALTY AND FINAL DECISION

Council's Decision dated December 14, 2018 was delivered to the Former Licensee by registered mail on December 17, 2018. The Decision outlined the foregoing background, analysis, and conclusions on a preliminary basis.

Pursuant to sections 375(1.1) (c) and (d) of the *Act* and section 7(1) of *Regulation 227/91*, Council concludes:

1. The Former Licensee be fined \$7,500.00 and assessed partial investigation costs of \$1,250.00.

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 Decision is published, in accordance with sections 7.1(1) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the **16th day of January, 2019**.