

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
MARJORIE J. BLACKLOCK
(“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*.

The Council’s Senior Licensing Officer received an enquiry from Licensee B who was sponsored by the Former Licensee in her capacity as Operating Agent of an Agency. Licensee B, a Level 1 general insurance agent, requested information on upgrading his licence to a livestock licence and advised the Officer that he currently attended cattle sales in Manitoba. 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 had violated the *Act* and/or General Insurance Agents Licensing Rules (“*Licensing Rules*”), and/or General Insurance Agent Code of Conduct (“*Code of Conduct*”). During the investigation, the Former Licensee was provided with opportunities to make a submission.

On November 8, 2018, during a meeting of the Council, the evidence compiled during the investigation was reviewed. Upon assessment of the evidence, Council determined its Intended Decision. Pursuant to section 375(1) of the *Act* and *Regulation 227/91*, the Council now renders its Decision and corresponding reasons.

ISSUES

1. Did the Former Licensee, in her capacity as an Operating Agent, violate *the Act*, its *Licensing Rules*, and/or the *Code of Conduct* by failing to ensure that Licensee B, conducted insurance sales inside the office of a general insurance agency and under an authorized supervisor?
2. Did the Former Licensee fail to respond to the Council’s requests in violation of the *Act* and the *Code of Conduct*?

FACTS AND EVIDENCE

1. At all material times, the Former Licensee was the Level 3 – Operating Agent responsible for the management of an Agency (the “Agency”).
2. On February 21, 2012, Licensee B applied for a Level 1 General Insurance Agent licence in Manitoba. He held an Insurance Councils of Saskatchewan All Classes other than Life, Level 1 licence in Saskatchewan.
3. A Level 1 licence was issued by the Insurance Council of Manitoba (“ICM”) on February 28, 2012. In the letter addressed to Licensee B on that date was the requirement to “Be supervised on site at all times by a Level 2 or Level 3 licensed agent.” A copy of this letter was forwarded to the Former Licensee.
4. In each of the Licence Renewal Applications between 2012 to 2017, the Former Licensee, answered “no” to the Additional Screening Questions 4: “Had knowledge of any conduct and/or regulatory violation by any licensed employee of the agency not previously reported to ICM?” The Former Licensee attested that “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.”
5. Between February 28, 2012 and May 31, 2018, the only licensed agents for the Agency were the Former Licensee and Licensee B.
6. On February 12, 2018, an Agency Attestation Form was emailed to the Former Licensee by ICM for completion.
7. On February 16, 2018, the Licensee B spoke with the Senior Licensing Officer regarding upgrading his licence from a general insurance agent licence to a livestock licence. He advised the Officer that he currently attended cattle sales in Saskatchewan and in Manitoba.
8. On February 21, 2018, the Investigator corresponded with the Former Licensee requesting a description of Licensee B’s agent activity in Manitoba, including the location from which he was operating in Manitoba and the name of his supervisor. A list of his policies/renewals was also requested.
9. On February 27, 2018, the Former Licensee was advised by the ICM Licensing Department that she had missed the return date on the Agency Attestation Form and the 2018 licence renewal for the Agency for all licensees would not be opened.
10. On March 14, 2018, the ICM Investigator sent a follow-up letter to the letter of February 21, 2018, to the Former Licensee regarding Licensee B’s agent activity in Manitoba. In this letter was notice that failure to respond could result in disciplinary action. The Former Licensee did not respond to either letter.

11. As a result of the Former Licensee failing to complete the 2018 Agency Attestation Form, the 2018 licence renewal applications for all Agency licensees were deleted on April 2, 2018.

12. On May 31, 2018, the Former Licensee's licence lapsed.

Agency Amendment and correspondence 2018

13. On or about March 1, 2018, the Agency was purchased by Agency B.

14. On March 26, 2018, at 2:16 PM, the Vice President of Regulatory & Compliance for Agency B reported: "The only Manitoba policies that are sold by [Licensee B] are when a Manitoba resident is at a Bull sale in the Province of Saskatchewan With exception of the [Client A] Sale Feb 18, 2018." Provided was a copy of the policy for Client A, Manitoba residents. The Vice President reported that Licensee B would not be paid a commission. The Vice President advised that Licensee B worked out of his home in Saskatoon, as well as, at the Saskatoon office, and would sell All Risk Mortality for a bull, where the resident of Manitoba is at a Saskatoon sale. It was also noted that he was invited and attended a Manitoba bull sale on February 18.

15. On April 9, 2018, the Operating Agent Licence Applicant A applied to the ICM to become the replacing Operating Agent for Agency B.

ANALYSIS

Licensing Rules section 3(2) restricts general insurance agents – Level 1 – to sales activities within a general insurance office and under supervision by a level 2 or level 3 licence holder as noted in section 4 and section 5(1) of the Rules.

By his own admission, Licensee B attended cattle sales in Manitoba, one on February 18, 2018, two days after his inquiry with the ICM's Senior Licensing Officer. Confirmation that one policy to was sold to a Manitoba resident from the Vice President, provided proof that Licensee B violated sections 375(1)(b) and (f) of *the Act* and section 3(2) of the *Licensing Rules*. In addition, the Operating Agent Licence Applicant A advised the Council that Licensee B attends livestock sales in Saskatchewan where Manitoba residents attend the livestock sale and purchase insurance.

The Former Licensee failed, as the Agency's Operating Agent at the time, to manage Licensee B to ensure that he acted within his licence conditions. She made material misrepresentations to the Council when she completed her annual licence renewals, advising that she had no knowledge of conduct and/or regulatory violation of a licensed employee. Further, she abandoned her requirements as an Operating Agent in failing to ensure that she was available and responding to the Council's requests for information regarding Licensee B and his activity for the Agency, and by failing to return the Agency Attestation Form for 2018. As such she was in violation of section 17(1) and section 375(1)(b) of the *Act*, section 5(1)(d) and section 8(3) of the *Licensing Rules* and section 8 and section 9 of the *Code of Conduct*.

The Council noted the Former Licensee had abdicated her responsibilities as the Operating Agent long before her licence lapsed on May 31, 2018.

PENALTY AND FINAL DECISION

Council's Decision dated June 6, 2019, was delivered to the Former Licensee by registered mail on June 12, 2019. The Decision outlined the foregoing background, analysis and conclusions 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) and 7(2) of *Regulation 227/91*:

1. The Former Licensee be fined \$500.00 and assessed partial investigation costs of \$400.00.

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 10th day of July, 2019.