

DECISION
of the
GENERAL INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
AVNEET KAUR ARORA
(“Licensee”)

INTRODUCTION

The General Insurance Council of Manitoba (“Council”) derives its authority from *The Insurance Act* C.C.S.M. c. 140 (“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 Licensee’s activity violated the *Act*, its *Regulations*, the General Insurance Agents Licensing Rules (the “*Licensing Rules*”), and/or the General Insurance Agent’s Code of Conduct (the “*Code of Conduct*”).

During the investigation the Licensee was notified of Council’s concerns and given an opportunity to make submissions.

On September 28, 2020, during a meeting of Council, the 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 Licensee that she may request a Hearing to dispute Council’s determinations and its penalty/sanction. The Licensee expressly declined her right and chose not to pursue a Hearing; she instead expressly accepted the terms of the Intended Decision.

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

ISSUE

1. Did the Licensee falsely declare on her licensing application (dated January 3, 2020 and received by the ICM on January 22, 2020), that she had not been placed under investigation in any jurisdiction, at any time, by any Regulatory Authority in violation of section 375(1)(a) Misrepresentation, of the *Act* and section 10 (Conduct Toward Others), of the *Code of Conduct*?

FACTS AND EVIDENCE

1. On January 7, 2020, the Insurance Council of Manitoba (“ICM”) Licensing Department received an insurance agent reinstatement application from the Licensee (signed and dated January 3, 2020).
2. The application was not processed as it was incomplete. By email dated January 10, 2020, the Licensee’s licensing application was returned to her advising her to re-complete the application in original ink and re-submit the accurate reinstatement fee.
3. By email dated January 10, 2020, Council’s Investigator notified the Licensee that she was under investigation for Unlicensed Activity and Holding Out as an agent without being duly licensed.
4. On January 22, 2020, ICM’s Licensing Department again received what was clearly the same insurance agent reinstatement application from the Licensee (signed and dated January 3, 2020), rather than a newly completed application form.
5. The Licensee in completing her same insurance agent reinstatement application (signed and dated January 3, 2020), now received by ICM’s Licensing Department on January 22, 2020, answered “No” to the following question:

16.) In any jurisdiction, at any time, have you, or any business with which you were/are involved been:

b) Under investigation, or have you ever been subject to any disciplinary action by any Regulatory Authority or Regulatory Association?

6. The licensing application completed by the Licensee (signed and dated January 3, 2020) contained a Consent & Declaration (the "Declaration") section which stated:

I declare that the information contained in this application, including attachments, is true and complete... I also understand that it is an offence under The Insurance Act to make a material misstatement to the ICM.

7. On January 29, 2020, Council's Director, Licensing sent an email to the Licensee advising her to review question 16(b) on her reinstatement application, as it was answered as "No" and asked her to provide details of changes, if any.

8. By email dated January 30, 2020, the Licensee indicated to Council's Director, Licensing stating that:

"When I Initially signed the application I was not aware of that my License is under investigation, the file is being reviewed by [Council's Investigator]. She can provide you with more information in regards to. Can you please advise, if everything ok from your end, about when can I expect the answer from you guys."

9. On January 30, 2020, Council's Director Licensing sent an email to the Licensee advising that:

"You were made aware that you were under investigation prior to completing this application – I believe it was the same day that your prior application was returned to you. Please re-review the question and provide the information."

10. By email dated January 30, 2020, the Licensee acknowledged to Council's Director Licensing by indicating that:

"Yes when my application was returned as you requires the original copy, I was aware and it is error on my side which I did not clear on the application."

"Yes my License is under investigation and my File is being reviewed by [Council's Investigator]"

11. On August 10, 2020, Council's Investigator questioned the Licensee by inquiring:

"Why did you answer "No" when asked whether you have been under investigation in any jurisdiction, at any time - on your insurance agent reinstatement application received by ICM on January 22, 2020."

12. By email dated August 12, 2020, the Licensee indicated to Council's Investigator that:

"I admit as stated earlier that this was an error on my part, and I apologize for it."

ANALYSIS AND DETERMINATIONS

Pursuant to section 375(1)(a) of the *Act* misrepresentations and dishonesty are prohibited – this includes false declarations on licensing applications. Section 10 (Conduct Towards Others), of the *Code of Conduct*, mandates an agent to act in good faith towards Council.

As part of its mandate to protect the public, the ICM requires the Licensee to answer certain questions for licensing applications. Among them is whether the applicant/Licensee has "been under investigation..., by any Regulatory Authority." And ICM licensing applications contained the following Declaration:

I declare that the information contained in this application, including attachments, is true and complete... I also understand that it is an offence under The Insurance Act to make a material misstatement to the ICM.

This is a very important disclosure obligation. Disclosure of material changes and circumstances (such as being under investigation) on licensing applications permits Council to assess whether the change/issue poses a potential risk to the public and to conduct any necessary inquiries or investigation to aid in that assessment. The nature of the material change would be considered to determine if it is critical to the person's trustworthiness, competence, or intention to carry on the business of insurance in good faith, and whether the person is suitable to be licensed.

The applicable application question explicitly seeks disclosure regarding whether an applicant has been under investigation by any Regulatory Authority.

In January 2020, the Licensee applied to the ICM for the reinstatement of her insurance agent licence two times.

The initial licensing application received by ICM's Licensing Department on January 7, 2020, (signed and dated by Licensee on January 3, 2020), was returned to the Licensee as it was incomplete. Because the application was incomplete, the Licensee was instructed to re-complete the application form in original ink.

On January 10, 2020, the Licensee was notified by ICM's Investigator that she was under investigation.

On January 22, 2020, ICM's Licensing Department received the Licensee's licensing reinstatement application - still signed and dated January 3, 2020 – this was a copy of the same application form that had been previously submitted to the ICM and returned to the Licensee. The Licensee failed to follow instructions from the ICM's Licensing Department to re-complete the application in original ink. At this time, the Licensee had knowledge that she had been placed under investigation and failed to disclose that material fact on the licensing application submitted a second time.

Council places a strong reliance and good faith on the true and accurate statements made by licensees on their licence applications. Council concluded that the Licensee falsely declared on her licensing application received by the ICM Licensing Department on January 22, 2020 (dated January 3, 2020), that she had not been placed under investigation in any jurisdiction, at any time, by any Regulatory Authority – in this instance, the ICM.

Based on the information and evidence reviewed, Council concluded that the Licensee violated sections 375(1)(a) Misrepresentation, of the *Act*, and section 10 (Conduct Towards Others), of the *Code of Conduct*, and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision dated January 28, 2021 was delivered to the Licensee by mail on January 29, 2021.

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 section 375(1.1)(c) of the *Act* and section 7(1) of *Regulation 227/91*:

1. The Licensee be fined \$250.00 but not assessed with investigation costs.

Pursuant to section 389.0.1(1) of the *Act*, the Licensee had the right to appeal this Decision within twenty-one (21) days of receipt. The 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 Decision is published, in accordance with sections 7.1(1) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 4th day of March, 2021.