

DECISION
of the
LIFE INSURANCE COUNCIL OF MANITOBA
(“Council”)
Respecting
ZENAIDA DELA PAZ UMBAL
(“Licensee”)

INTRODUCTION

The Life Insurance Council of Manitoba (“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 a compliance issue concerning the Licensee, 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*. Council undertook an investigation of the Licensee to determine whether she had violated the *Act*, its *Regulations*, and/or the Life Insurance and Accident and Sickness Agent’s Code of Conduct (the “Code of Conduct”).

During the investigation the Licensee was given an opportunity to make submissions with respect to Council’s concerns.

On October 28, 2021, 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*, Council hereby renders its Decision and corresponding reasons.

ISSUES

1. The Licensee held Life and Accident and Sickness (“A&S”) licences while not being insured by a Professional Liability insurance policy (Errors and Omissions – “E&O”) for the period of May 11 – June 6, 2021.
2. The Licensee failed to notify the Insurance Council of Manitoba (“ICM”), without delay, of the lapse of her E&O coverage as of May 10, 2021, and instead notified the ICM on June 7, 2021.
3. The Licensee misrepresented on her May 27, 2021 licensing renewal application that she had continuously maintained professional liability coverage.

FACTS AND EVIDENCE

1. At all material times, the Licensee held Life and A&S licences for the Province of Manitoba.
2. To hold/maintain a Life and/or A&S licence(s) in the Province of Manitoba, continual maintenance of liability insurance (E&O) is required pursuant to section 371(1.1) of the *Act* and in accordance with section 12(1) of *Regulation 389/87R*.
3. The Licensee declared on her May 6, 2020 licensing renewal application that she would notify Council within 15 days of any material changes, this included lapses or cancellation of E&O coverage.
4. On December 19, 2020, the Licensee updated her E&O policy information on ICM’s Licensing Portal for both her Life and A&S licences with the policy period of January 1, 2021 to January 1, 2022.
5. By letter dated March 31, 2021, the E&O Carrier (the “Carrier”) notified the Licensee of her responsibility to make alternate arrangements immediately for E&O coverage, and on April 1, 2021, the Carrier emailed the Licensee and notified the Licensee that her last day of E&O coverage would be May 10, 2021.
6. By email dated June 9, 2021, the Licensee’s former E&O insurer indicated to ICM’s Licensing department that coverage had been lapsed on May 10, 2021.
7. In completing her May 27, 2021 licensing renewal application, the Licensee falsely answered “Yes” to question #1 of the Maintenance of Errors and Omissions Insurance section of the application which read:

“I have continuously maintained professional liability insurance in accordance with the Insurance Agents and Adjusters Regulation 389/87 and The Insurance Act of Manitoba.”

The application contained a Declaration which stated:

“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. I agree to notify Council within 15 days of any material changes to the information contained in this application.”

8. By email dated June 7, 2021, the Licensee self-reported her gap in E&O coverage to ICM’s Licensing department and indicated that:
 - a) She had recently transferred to a new Managing General Agent, and *“...in the process of transferring my contracts, I forgot to get new [E&O] coverage in place.”*
 - b) *“I did not speak with any clients or prospective clients nor did I sign any applications or servicing documents during the period where I had no Errors and Omissions coverage in force, May 10 to June 6,2021.”*
 - c) *“It was only during the process of renewing my license last May 27, 2021 and answering the questions regarding E&O that I was surprised and dismayed, knowing my previous E&O was terminated already last May 10,2021.”*
 - d) *“But seeing then in my dashboard [ICM’s Licensing Portal] that my E&O is still covered,... and thinking my previous provider has not given me back any refund yet up to the present, I managed to renew my license last May 27,2021.”*

ANALYSIS AND DETERMINATIONS

Pursuant to sections 371(1.1) and 372.1(2) of the *Act*, section 12(1) of the Insurance Agents and Adjusters *Regulation 389/87R*, and section 4 Professionalism – Financial Accountability, of the *Code of Conduct*, it was the the Licensee’s responsibility to ensure that she continually maintained liability insurance (E&O) while holding Life and A&S licences and to notify Council without delay in the event her E&O was lapsed or cancelled.

Further, the Licensee declared on her 2020 licensing application that she would notify Council within 15 days of any material changes to the information contained within her application, this included information pertaining to lapses or cancellation of her E&O coverage.

The Licensee's E&O coverage was terminated on May 10, 2021; however, the Licensee did not notify Council of the cancellation until June 7, 2021 which was over the 15 day reporting period.

The Licensee made a false declaration on her licensing renewal application, dated May 27, 2021, when she answered "Yes" to continuously maintaining E&O coverage, with the knowledge that her E&O coverage had been terminated on May 10, 2021. Further, the Licensee declared that the answers she had provided on her May 27, 2021 renewal were true, accepted responsibility for the answers provided, and understood that a false declaration could lead to disciplinary action.

Pursuant to sections 375(1)(a) of the *Act* misrepresentations and dishonesty are prohibited – this includes false declarations on licensing applications. Section 9 – Dealing with the Insurance Council of Manitoba, of the *Code of Conduct*, mandates an agent to respond honestly with full disclosure to inquiries from the Insurance Council of Manitoba.

Based on the information and evidence reviewed, Council concluded that the Licensee violated sections 371(1.1), 372.1(2), 375(1)(a), 375(1)(b), of the *Act* and section 12(1) of the Insurance Agents and Adjusters *Regulation 389/87R*, and sections 4 – Professionalism and 9 – Dealing with the Insurance Council of Manitoba, of the *Code of Conduct* and that disciplinary action is warranted.

PENALTY AND FINAL DECISION

Council's Decision dated February 14, 2022 was delivered to the Licensee by mail on February 18, 2022. 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) and (d) of the *Act* and section 7(1) of *Regulation 227/91*, and Council intends to order the following:

1. The Licensee is fined \$200.00 and assessed partial investigation costs of \$500.00.

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 are in the public interest, this will occur, in accordance with sections 7.1(1) and 7.1(2) of *Regulation 227/91*.

Dated in Winnipeg, Manitoba on the 23rd day of March, 2022.