

ALBERTA INSURANCE COUNCIL
(the "AIC")

In the Matter of the *Insurance Act*, R.S.A. 2000, Chapter I-3
(the "Act")

And

In the Matter of Hebert Enterprises Ltd./Hebert's Motor Sports
(the "Dealership")

As represented by
Designated Individual
Gerry Hebert
(the "DI")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Dealership's licensing records, during which review information came to light that indicated that the Dealership had been acting as a restricted insurance agent while unlicensed;

AND WHEREAS the review established that the Dealership sold 15 credit related insurance policies during the period from June 3, 2011 to and including November 5, 2014, without a valid and subsisting Certificate of Authority and was compensated for acting as a restricted insurance agent by Park Avenue Financial Services Corporation ("PAF");

AND WHEREAS the Dealership is aware of the opportunity to retain and instruct legal counsel with respect to the matters referred to in this Agreed Statement of Facts and Joint Submission;

NOW THEREFORE the DI and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Dealership through its DI makes the following admissions and submissions:
 - 1.1.1 The Dealership is the holder of a Certificate of Authority (99-2875845) to transact business as a Restricted Insurance Agent and has been licensed since February 17, 2005, other than for the period from June 3, 2011 to and including November 5, 2014 ("unlicensed period");
 - 1.1.2 On October 30, 2014, the AIC received an Application for Restricted Insurance Agents Certificate of Authority to sell credit related insurance from the Dealership. The application was dated October 27, 2014;
 - 1.1.3 The AIC sent a letter to the Dealership dated February 26, 2015, which requested details as to the number of insurance policies the Dealership sold in the period unlicensed as well as details in relation to the compensation it had received for doing so;

- 1.1.4 The DI responded by email to the AIC on March 19, 2015, advising the AIC that they had found only one sale of insurance for the period they were unlicensed. They indicated it was underwritten by First Canadian Insurance ("FC") and they received \$135.73 as compensation for the same;
 - 1.1.5 In response to a letter from the AIC emailed to Jenna Stanger ("JS"), Manager Dealer Support with FC requesting details as to the number of policies sold and compensation paid to the dealership for the same during the unlicensed period, JS responded to the AIC and advised that the Dealership contracted their business out to a sales finance company, Park Avenue Financial Services Corporation (PAF). All commissions paid by FC were to PAF that in turn paid the Dealership.
 - 1.1.6 On July 21, 2015, the investigator wrote to PAF and asked them to provide details regarding compensation paid to the Dealership during the unlicensed period. The investigator also inquired as to why PAF had compensated an unlicensed entity. PAF responded on July 28, 2015 and advised that they were not aware that the Dealership had let their license lapse. When the problem was brought to their attention they worked with FC on getting the Dealership relicensed. PAF advised the AIC that the Dealership had sold 15 credit related policies when it was unlicensed and was compensated \$2,297.08 in total for the same.
 - 1.1.7 The AIC wrote to the Dealership enquiring why the information provided by the Dealership differed from the information provided by PAF. The Dealership responded and agreed with the list provided by PAF. They also advised that the reason for the discrepancy in their earlier submission was that the deals were posted to their system as commissions on sales not as Insurance sales and as a result this information did not show up in the earlier report they generated.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Dealership contravened section 452 (1) of the Act, and consequently violated section 480 (1) (b) of the Act for unlicensed activity.
- 3.0 The DI and the Investigator jointly recommend to the Life Insurance Council ("Council") that the Council approve this Agreed Statement of Facts and Joint Submission and resolve, dispose of and finally conclude this matter involving the Dealership by approving a decision in the form annexed hereto as Schedule 1, which provides for a civil penalty in the amount of \$300.00, in accordance with the penalties prescribed in section 13 (1) (b) of the Certificate Expiry, Penalties and Fees Regulation, A.R. 125/2001.
- 4.0 The DI recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Dealership is aware of and acknowledges that upon receiving notification of the Council's decision, the civil penalty specified in Schedule 1 must be paid within the time frames set out in section 480 (4) of the Act.
- 6.0 The Dealership is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Dealership waives its right to appeal this decision as set out in section 482 of the Act.

- 7.0 The Dealership waives any existing right it may have under the Act or otherwise to a hearing, review, judicial review or appeal of this matter.
- 8.0 The Dealership acknowledges that this Agreed Statement of Facts and Joint Submission may be referred to in this or any other proceeding under the Act, and in regulatory proceedings in other jurisdictions.
- 9.0 The Dealership recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Dealership in this matter only, as the matter is described above.

Dated at the City of Calgary, in the Province of Alberta this 9th day of

September 2015.

ALBERTA INSURANCE COUNCIL
PER:

Original Signed By
Roy Dias, Investigator

Dated at the City of High Prairie, in the Province of Alberta, this Sept (sic) day of

17 (sic) 2015.

Original Signed By
Gerry Hebert, Designated Individual

In the presence of:

Signed _____
Signature of Witness

Name of Witness (please print)

SCHEDULE 1

ALBERTA INSURANCE COUNCIL
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In the Matter of Hebert Enterprises Ltd./Herbert's Motor Sports
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**DECISION OF
The Life Insurance Council
(the "Council")**

WHEREAS the Investigator of the Alberta Insurance Council ("AIC") made a request for information in relation to an investigation being conducted by the AIC into the Dealership to sell credit related insurance policies while unlicensed;

AND WHEREAS as a result of information received, the Investigator and the Dealership entered into an Agreed Statement of Facts and Joint Submission, a copy of which is attached hereto;

AND WHEREAS pursuant to the Agreed Statement of Facts and Joint Submission, the DI has agreed that the Dealership will pay a civil penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) and has acknowledged that the Council has the discretion to accept or reject that recommendation;

AND WHEREAS the Council considers that it would be in the public interest to approve the said Agreed Statement of Facts and Joint Submission;

IT IS ORDERED that:

1. The Agreed Statement of Facts and Joint Submission be accepted and is hereby approved; and
2. The Dealership pay a fine of THREE HUNDRED DOLLARS (\$300.00), in accordance with the terms and conditions set out in the Agreed Statement of Facts and Joint Submission.

The attached Agreed Statement of Facts and Joint Submission was reviewed by the Council and a motion to approve this decision was made and carried at a properly conducted meeting of the Life Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: December 7, 2015

Original Signed By
Kenneth Doll, Chair
Life Insurance Council