

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 Amandeep Brar
(the "Agent")

DECISION
OF
The General Insurance Council
(the "Council")

This case involved an allegation pursuant to s. 490(1) of the Act. Specifically, it is alleged that the Agent carried out insurance agent activities under a business name that was not set out on his certificate of authority. As such, it is alleged that he contravened a section of the Act as contemplated in s. 480(1)(b) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council (the "Report"). The Report was forwarded to the Agent for his review and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. The Agent adduced further evidence and submissions by way of a letter dated April 4, 2016. We further wish to note that this allegation concerned an Agent employed by the Lundgren & Young insurance agency ("L&Y") and Thom Young, a member of this Council, is the designated representative of L&Y. Given this, Mr. Young absented himself from our meeting and has taken no part in our deliberations or the issuance of this Decision.

The Agent has been licensed to act in the capacity of a general insurance agent since October 17, 2012. When he applied for his certificates by way of applications dated September 18, 2012, June 17, 2013, and October 16, 2013 the Agent was required to disclose whether or not he was engaged in any other business or occupation other than insurance. In the September 18, 2012 application the Agent indicated that he had another occupation ("TV Producer"). No was marked in relation to the same question on all the Agent's subsequent agent applications for certificate of authority including the June 17, 2013 and October 16, 2013 applications.

On January 12, 2016 an AIC investigator received an e-mail complaint from "KS". In this email, KS outlined concerns that he had in relation to the Agent. Included amongst a number of attachments to the email was a photo of the Agent's office exterior that depicted a business sign. This sign stated, among other things, Aman Brar & Associates with "Financial Services" below it. The phone number set out on the sign was the Agent's business phone number.

The investigator wrote to the Agent by letter dated January 25, 2016 and requested information and documentation. In his letter, the investigator reminded the Agent that he had been the subject of a similar holding-out investigation in 2012 and that this file was closed without further proceedings upon the Agent's assurances that the business names under which he was operating would be amended so that they would properly reflect those found on his license. Specifically, he said that these changes were being made so that "...there is no confusion in the future."

The investigator also advised the Agent that he had disclosed that he was a "TV Producer" on his 2012 June 20, 2013 renewal application but that he did not otherwise disclose any "financial service" business activities on subsequent applications. As such, the investigator requested that the Agent explain what types of financial services were being offered as this term was included in the business name used by the Agent. Apart from this, the investigator also pointed out to the Agent that his business telephone was being answered as "Aman Brar & Associates" rather than Lundgren & Young (the name under which the business is licensed, hereinafter L&Y).

The Agent responded by way of email and accompanying documents on February 2, 2016. Among other things, the Agent indicated that "Aman Brar and Associates" is not involved in the insurance business and does not represent L&Y. He wrote that he and his staff are not involved in any other business activity, however, he said that it was his intention to start offering financial services in the future and that these would include services such as "debt consolidation", "Tax filing", "Tax services" and "private lending" and that he would appropriately report this to the AIC as it occurred. In response to a further inquiry from the investigator, the Agent confirmed that the sign in question was first installed in 2011.

In his addendum the Agent wrote that he will hereinafter disclose the other financial services business on application forms and that he will be the only general insurance agent holding himself out in that manner.

Discussion

In this case, the Agent's advertisements comingled the L&Y business information with "Aman Brar & Associates Financial Services" to the extent that both names appeared on the same sign and used the same telephone number. The undisputed evidence is that the Agent's telephone was also answered as "Aman Brar & Associates Financial Services."

Section 490 of the Act reads as follows:

No business that holds an insurance agent's certificate of authority and no employee or independent contractor of a business that holds an insurance agent's certificate of authority may indicate in any advertisement or document or in any other manner that the business's insurance agent activities are carried out under a business name that is different from the name set out in the certificate of authority.

The purpose of this provision is one of public protection in that consumers must be able to discern the name of the intermediary with whom they are dealing and to enable them to determine whether or not it is appropriately licensed. The Agent's use of an unauthorized name on his displayed advertising and the manner in which his business telephones were answered prevented this level of transparency and we find him guilty of the allegation set out in the Report.

In relation to this finding, we have the ability to levy civil penalties in an amount not exceeding \$1,000.00 pursuant to s. 480(1)(b) of the Act and s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001. We also have the ability to suspend the Agent's certificate of authority for a period of time or revoke it for one year. In light of the fact that the Agent was the subject of a previous investigation he knew full well that he could only hold himself out in the business name that appeared on his certificate of authority. Despite this, he either chose or neglected to amend all of his advertising to comply with the Act. As such, we are of the view that a substantial civil penalty is warranted. Therefore, we levy a civil penalty of \$1,000.00. We would also expect that the sign in issue will be changed and that his business phones will be answered in a manner consistent with the Lundgren & Young agency name as found on his certificate of authority. In the event that this decision does not

precipitate ongoing compliance with the Act, future Councils could very well consider a license suspension or revocation in the event of further offences.

The civil penalty must be paid within thirty (30) days of the mailing of this Decision. In the event that the civil penalty is not paid within thirty (30) days, the Agent's certificate of authority will be automatically suspended pursuant to s. 480(4) of the Act. Pursuant to s. 482 of the Act (copy enclosed), the Agent has thirty (30) days in which to appeal this decision by filing a notice of appeal with the Office of the Superintendent of Insurance.

This Decision was made by way of a motion made and carried at a properly conducted meeting of the General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: June 29, 2016

Original Signed By

Lorrie King, Member
On Behalf of the General Insurance Council

Extract from the Insurance Act, Chapter I-3**Appeal**

482 A decision of the Minister under this Part to refuse to issue, renew or reinstate a certificate of authority, to impose terms and conditions on a certificate of authority, to revoke or suspend a certificate of authority or to impose a penalty on the holder or former holder of a certificate of authority may be appealed in accordance with the regulations.

Extract from the Insurance Councils Regulation, Alberta Regulation 126/2001**Notice of appeal**

16(1) A person who is adversely affected by a decision of a council may appeal the decision by submitting a notice of appeal to the Superintendent within 30 days after the council has mailed the written notice of the decision to the person.

(2) The notice of appeal must contain the following:

- a) a copy of the written notice of the decision being appealed;
- b) a description of the relief requested by the appellant;
- c) the signature of the appellant or the appellant's lawyer;
- d) an address for service in Alberta for the appellant;
- e) an appeal fee of \$200 payable to the Provincial Treasurer.

(3) The Superintendent must notify the Minister and provide a copy of the notice of appeal to the council whose decision is being appealed when a notice of appeal has been submitted.

(4) If the appeal involves a suspension or revocation of a certificate of authority or a levy of a penalty, the council's decision is suspended until after the disposition of the appeal by a panel of the Appeal Board.

Address for Superintendent of Insurance:

Superintendent of Insurance
Alberta Finance
402 Terrace Building
9515-107 Street
Edmonton, Alberta T5K 2C3