

ALBERTA INSURANCE COUNCIL

IN THE MATTER OF THE *INSURANCE ACT*, R.S.A. 2000, CHAPTER I-3
(the “*Act*”)

AND

IN THE MATTER OF THE DRIVING FORCE INC. O/A THE DRIVING FORCE
(the “Dealership”)

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the “AIC”) undertook a review of the Dealership’s application for a Restricted Agents Certificate of Authority received on November 22, 2012, during which review information came to light indicating that the Dealership had been acting as a restricted agent while unlicensed;

AND WHEREAS the review established that the Dealership had sold credit related insurance policies during the period from February 18, 2012 to November 27, 2012, without a valid and subsisting Certificate of Authority and that during that same period of time, the Dealership was compensated for acting as a restricted insurance agent;

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 designated individual of the Dealership, as described below, and the investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the designated individual of the Dealership, as described below, makes the following admissions and submissions:
 - 1.1.1 The Dealership is the holder of a valid and subsisting Certificate of Authority (#91-993501) to transact business as an insurance agent restricted to credit related insurance under s. 454 of the *Act* and has been so licensed since October 11, 2001 with the exception of the unlicensed period in question;
 - 1.1.2 Verna Elias (license #148164) has been named as the designated individual (the “DI”) of the Dealership since November 28, 2012;
 - 1.1.3 On November 27, 2012, the AIC received a letter from the DI confirming that the Dealership had sold insurance products, and were compensated for doing so, during a period of time when they did not hold a valid and subsisting Certificate of Authority;
 - 1.1.4 In response to a request for information from the AIC, the AIC received an email from the DI of the Dealership on February 1, 2013, which stated “We wish to

note that we were not aware that [the Dealership] did not have a valid licence for the noted period...we have no record of having received a letter from yourselves AIC about suspending or revoking the licence.”;

- 1.1.5 A Restricted Agents Certificate of Authority for the sale of credit related insurance products was issued by the AIC to the Dealership on November 28, 2012;
 - 1.1.6 In response to a request from the AIC, the DI sent an email to the AIC on February 26, 2013, confirming that the Dealership had sold 82 policies during the unlicensed period, and received \$89,338.44 in commission for those sales. This information was also confirmed with the Insurer;
 - 1.1.7 In response to a request from the AIC, the Dealership’s former sponsor sent a letter to the AIC confirming that a letter had been sent to the Dealership on January 6, 2012, explaining that they would no longer be sponsoring the Dealership’s credit related license effective February 15, 2012. The DI has alleged that their office has no record of ever receiving a copy of this correspondence from the sponsor and were therefore unaware that they had lost their sponsorship. A copy of that letter was enclosed;
 - 1.1.8 The Dealership was cautioned in relation to unlicensed activity during the period from February 16, 2006 to and including April 6, 2006 in a previous case.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Dealership contravened s. 452(1) of the *Act*, and consequently violated s. 480(1)(b) of the *Act*.
 - 3.0 The DI of the Dealership and the investigator jointly recommend to the Life Insurance Council (the “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 signing a decision in the form attached hereto as Schedule 1, which provides for a fine of \$300.00 in accordance with the penalties prescribed in s.13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation, 125/2001*.
 - 4.0 The DI of the Dealership recognizes that the acceptance of the decision set out in Schedule 1 hereto by the Council shall be at the unfettered discretion of the Council.
 - 5.0 The DI of the Dealership is aware of and acknowledges that upon receiving notification of the Council’s decision, the specified fine must be paid within the time frames set out in s. 480(4) of the *Act*.
 - 6.0 The DI of 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 pursuant to s. 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 DI of 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 DI of 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 24 day of September 2013.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Carrie Graham, Investigator

Dated at Edmonton, in the Province of Alberta, this 18 day of September 2013.

Original signed by
Verna Elias, Designated Individual

In the presence of:

Original signed by
Name of Witness (please print)

Original signed by
Signature of Witness

SCHEDULE 1

ALBERTA INSURANCE COUNCIL

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(the “*Act*”)

AND

IN THE MATTER OF THE DRIVING FORCE INC. O/A THE DRIVING FORCE
(the “Dealership”)

**DECISION of the LIFE INSURANCE COUNCIL
(the “Council”)**

WHEREAS the investigator of the Alberta Insurance Council (the “AIC”) made a request for information in relation to an investigation being conducted by the AIC, into the unlicensed activity of the Dealership from February 18, 2012 to November 27, 2012;

AND WHEREAS as a result of information received, the investigator and the DI of the Dealership have 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 of the Dealership has agreed that the Dealership will pay a 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 Council on November 7, 2013. The motion was duly recorded in the minutes of that meeting.

Original signed by

Doug Curtis, Chairperson, Life Insurance Council