

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 Mortgage Architects Inc. / Mortgage Architects
(the "Restricted Agent")

As represented by
Hilary Imineo
National Compliance Manager for the Restricted Agent
(the "Compliance Manager")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC received a complaint from "EM" and "NM" (collectively the "Complainants") against the Restricted Agent, in relation to the Restricted Agent's market conduct activities as a restricted insurance agent;

AND WHEREAS the investigation established that the Complainants completed and submitted an application for credit related insurance (the "CR Application") to the Restricted Agent and that the Restricted Agent failed to submit the CR Application to The Manufacturers Life Insurance Company ("Manulife");

AND WHEREAS the Restricted Agent 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 Restricted Agent and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Restricted Agent through its Authorized Representative makes the following admissions and submissions:
 - 1.1.1 The Restricted Agent is the holder of a Certificate of Authority (93-3796956) to transact business as a restricted insurance agent for sale of credit related insurance and has been licensed since March 27, 2007;
 - 1.1.2 In August, 2015 the Complainants retained the Restricted Agent to act as a mortgage broker on their behalf. While providing these services to the Complainants, one of the Restricted Agent's employees ("TV") provided the Complainants with the blank CR Application. On August 11, 2015, the Complainants completed, signed and dated the CR Application and e-mailed the CR Application to the Restricted Agent.
 - 1.1.3 The Restricted Agent failed to submit the CR Application to Manulife at that time.

- 1.1.4 On or about October 27, 2015 NM suffered a stroke and was hospitalized;
 - 1.1.5 On or about November 10, 2015, the Complainants received a letter from Manulife (the “Manulife Letter”). The Manulife Letter, dated October 19, 2015, led the Complainants to believe that Manulife did not issue a policy on the basis of the CR Application. Given this, the Complainants contacted TV to determine the status of the CR Application. TV’s subsequent investigation confirmed that the Complainants provided the CR Application to the Restricted Agent on August 12, 2015 and that the Restricted Agent still possessed the CR Application;
 - 1.1.6 As a result of NM’s November 18, 2015 call to the Restricted Agent, the Restricted Agent submitted the CR Application to Manulife on the same day;
 - 1.1.7 Manulife undertook additional underwriting activities after receiving the CR Application. The status of the Complainant’s coverage and whether or not she qualified for coverage under the policy is still the subject of discussion between the Complainants and Manulife.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Restricted Agent agrees that its failure to submit the CR Application to Manulife in a timely manner constitutes incompetence as contemplated in s. 480(1)(e) of the Act.
- 3.0 The Restricted Agent 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 Restricted Agent by approving a decision in the form annexed hereto as Schedule 1, which provides for:
- 3.1.1 Payment of a civil penalty in the amount of seven hundred and fifty dollars (\$750.00) within 30 days of the mailing of this order in accordance with s. 480(4) of the Act and the penalties prescribed in s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001; and
 - 3.1.2 That within 90 days, the Restricted Agent provide proof that its employees selling insurance have successfully completed an Errors & Omissions continuing education course that is accredited by the Alberta Continuing Education Accreditation Committee.
- 4.0 That in the event that the Restricted Agent fails to provide satisfactory proof that it has complied with the requirement set out in paragraph 3.1.2 above, the Restricted Agent’s certificate of authority is suspended until it has complied.
- 5.0 The Restricted Agent recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.

- 6.0 The Restricted Agent is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Restricted Agent waives it’s right to appeal this decision as set out in s. 482 of the Act.
- 7.0 The Restricted Agent 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 Restricted Agent 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 Restricted Agent recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Restricted Agent only as it pertains to the matter as described above.

Dated at the City of Edmonton, in the Province of Alberta this 23rd day of February, 2017.

ALBERTA INSURANCE COUNCIL
PER:

Bernie Van Brabant, Investigator

Dated at the City of Mississauga, in the Province of Ontario, this 27th day of February, 2017.

Restricted Agent’s Authorized Representative

In the presence of:

Signature of Witness

WITNESS

Name of Witness (please print)

SCHEDULE 1ALBERTA 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 Mortgage Architects Inc. / Mortgage Architects
(the "Restricted Agent")As represented by
National Compliance Manager, Hilary Imineo
(the "Compliance Manager")DECISION OF
The Life Insurance Council
(the "Council")

WHEREAS the Investigator of the AIC made a request for information in relation to an investigation being conducted by the AIC into the market conduct activities of the Restricted Agent;

AND WHEREAS as a result of information received, the Investigator and the Restricted Agent 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 Compliance Manager has agreed that the Restricted Agent will pay a civil penalty in the amount of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) in relation to the Restricted Agent demonstrating incompetence to act as an insurance agent, by failing to submit an application for insurance coverage to an insurer on a timely basis, 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;
2. The Restricted Agent pay a fine of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) in accordance with the terms and conditions set out in this Agreed Statement of Facts and Joint Submission;
3. That within 90 days, the Restricted Agent provide the AIC proof that its employees selling insurance have successfully completed an Errors & Omissions continuing education ("CE") course that is accredited for accident & sickness CE credits by the Alberta Continuing Education Accreditation Committee; and
4. That in the event that the Restricted Agent fails to comply with this Order, its certificate of authority is automatically suspended until it provides proof that it has complied with this Order's terms.

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. The motion was duly recorded in the minutes of that meeting.

Date: March 8, 2017

KENNETH DOLL
Kenneth Doll, Chair
Life Insurance Council