

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 AZF Auto Inc.
(the "Dealership")

As represented by
Adam Fayad, Designated Individual
(the "DI")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of the Dealership's errors and omissions ("E&O") policy information that was disclosed on its 2017/18 renewal application, during which review information came to light that indicated that the E&O information provided by the Dealership was invalid;

AND WHEREAS the review established that the Dealership did not hold E&O coverage from June 16, 2017 to September 14, 2017;

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 the DI makes the following admissions and submissions:
 - 1.1.1 The Dealership is the holder of a Certificate of Authority (2-10364658) to transact business as a restricted insurance agency to sell equipment warranty policies and has been licensed since March 31, 2011.
 - 1.1.2 On March 16, 2018, the AIC sent an email to the DI requesting that he provide the AIC with information regarding the Dealership's E&O insurance policy. On March 19, 2018, the Dealership provided a copy of its 2017/18 policy which showed that coverage has been in place from September 15, 2017 to September 15, 2018.
 - 1.1.3 The DI acknowledged that no E&O coverage was in place from June 16, 2017 to September 14, 2017. The DI advised the investigator that due to the DI's oversight the E&O coverage was not renewed automatically. The DI obtained E&O coverage as soon as the lack of coverage was discovered.

- 1.1.4 The DI is aware that any similar future occurrences may result in a potential fine as high as \$1000.00 per occurrence.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Dealership contravened section 465(1) of the Act, and consequently violated section 480(1)(b) of the Act for failing to provide information required by the Minister on the application in relation to the Dealership's E&O policy.
- 3.0 The DI and the Investigator jointly recommend to the General 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, AR 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 Edmonton, in the Province of Alberta this 18th day of April, 2018.

ALBERTA INSURANCE COUNCIL

PER:

Original signed by

Trisha Lunt, Investigator

Dated at the City of Edmonton, in the Province of Alberta, this 23rd day of April, 2018.

Original signed by

Adam Fayad, Designated Individual

In the presence of:

Original signed by

Signature of Witness

[ZF]

Name of Witness (please print)

SCHEDULE 1

ALBERTA INSURANCE COUNCIL

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Adam Fayad, Designated Individual,

(the "DI")

DECISION OF

The General 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 an errors and omissions review;

AND WHEREAS as a result of information received, the DI and the Investigator 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) in relation to the Dealership providing the AIC with information that was inaccurate on its renewal application 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 Agent pay a fine of THREE HUNDRED DOLLARS (\$300.00) in accordance with the terms and conditions set out in this 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: May 2, 2018

Original signed by

Lorrie King, Chair
General Insurance Council