

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 Capital Direct Lending Corp.
("Capital")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of Capital'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 Capital was invalid;

AND WHEREAS the review established that Capital had a E&O insurance policy in place, however that policy that failed to provide coverage for Capital's insurance agents activity;

AND WHEREAS Capital 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 Capital and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, Capital through it's Designated Individual ("DI") makes the following admissions and submissions:
 - 1.1.1 Capital is the holder of a Certificate of Authority (93-10880468) to transact business as a restricted insurance agency to sell mortgage policies and has been licensed since February 15, 2012 until December 11, 2017.
 - 1.1.2 On October 16, 2017, the AIC sent an email to the DI requesting that she provide the AIC with information regarding Capital's E&O insurance policy. On October 24, 2018, the DI provided a copy of Capital's 2017/18 policy which showed that coverage was in place.
 - 1.1.3 On November 7, 2017, the AIC sent an email to the E&O carrier requesting that the E&O carrier review their records to confirm whether the E&O insurance policy provided coverage for insurance agents activity. On November 22, 2017, the E&O carrier confirmed that the policy did not provide E&O coverage for insurance agent's activity.
 - 1.1.4 The DI advised that in an email dated June 27, 2017, Derek Tripp ("DT"), with Capital provided the E&O information to her. In good faith, the DI relied on the E&O information provided by DT and entered that E&O information onto the 2017/18 renewal application.

- 1.1.5 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, Capital contravened section 465(1) of the Act, and consequently violated section 480(1)(b) of the Act for failing to meet the E&O requirements in the Act.
- 3.0 Capital 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 Capital 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 Capital recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 Capital 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 Capital is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, Capital waives its right to appeal this decision as set out in section 482 of the Act.
- 7.0 Capital 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 Capital 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 Capital recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Capital in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta this 25th day of May, 2018.

ALBERTA INSURANCE COUNCIL

PER:

[Original signed by]

Trisha Lunt, Investigator

Dated at the City of Calgary, in the Province of Alberta, this 25th day of May, 2018.

Capital Direct Lending Corporation

PER:

[Original signed by]

Derek Tripp

In the presence of:

Original signed by

Signature of Witness

[TP]

Name of Witness (please print)

SCHEDULE 1

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 Capital Direct Lending Corp.
("Capital")

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 an errors and omissions review;

AND WHEREAS as a result of information received, Capital 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, Capital has agreed that it will pay a civil penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) in relation to Capital failing to meet the E&O requirements in the Act 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. Capital 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 Life Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: June 13, 2018

Original signed by
Kenneth Doll, Chair
Life Insurance Council