

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 Ron McGuffin  
(the "Agent")

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

This case involved an allegation pursuant to Section 481(2) of the Act. Specifically, it is alleged that the Agent failed or refused to provide information and documentation requested by an AIC investigator within the time specified in a Demand for Information (the "Demand"). In so doing, it is alleged that he contravened s. 481 of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated January 9, 2017, (the "Report"). The Former Agent was licensed from at least January 1, 1989 to March 12, 2012 for life and accident and sickness ("A&S") insurance. London Life terminated the Former Agent's recommendation by way of a letter to the AIC dated March 12, 2012. The notice advised that the Former Agent resigned at the request of London Life and stated that London Life was conducting its own investigation into the Former Agent's conduct.

An AIC investigator wrote to two London Life officials ("SM" and "KL") by letter dated March 22, 2012, and requested information and documentation. KL responded by letter dated April 13, 2012. Included with the letter, was an investigation summary report. The investigator spoke with the Former Agent in a telephone conversation on May 15, 2012. During this call, the investigator advised the Former Agent of this matter and that of another complaint that the AIC received. The Former Agent confirmed his mailing address and advised the investigator of other difficult circumstances that he was experiencing at the time.

The investigator wrote to the Former Agent and requested documentation and information by letter dated May 31, 2012. The investigator subsequently sent the formal Demand on September 5, 2012 and indicated that the Former Agent had to provide the information and documentation by September 21, 2012. The Former Agent did not respond.

The Former Agent applied for a probationary general insurance agent certificate of authority on July 21, 2016. As a result, the AIC investigator re-opened the previous investigatory file on August 15, 2016. The Former Agent provided the AIC with new contact information on his application and the investigator spoke with the Former Agent on August 26, 2016. The Investigator advised the Former Agent that he would again write to obtain the information sought by the previous Demand and he did so on August 26, 2016. The Former Agent needed to respond by September 23, 2016. To date, the Former Agent has not responded to the Investigator's request for information and documentation.

### **Discussion**

The AIC operates under a delegation from the Minister of Treasury Board and Finance (the "Minister"). Through this delegation, the AIC has authority matters relating to current and former holders of insurance agent certificates of authority. Section 481 states that "[t]he Minister may direct the holder or former holder of a certificate of authority to provide to the Minister within a reasonable period of time specified by the Minister relating to the matters in section 480(1)." Subsection 2 states that the "... person served with a direction under subsection (1) who has the information must provide the information in accordance with the direction."

Regulatory offences such as these are strict liability offences. As such, the AIC has the onus to prove that the Demand was properly made upon the Agent (proper in the sense that they meet all of the requirements under the Act) and that the Agent did not comply. Once this occurs, the onus shifts to the Agent to establish that he exercised due diligence in meeting his statutory requirement to respond. In order to substantiate this due diligence defence, the Agent must demonstrate that he took all reasonable means to avoid the offence.

The evidence is clear that the AIC investigator was investigating the London Life allegations and these

firmly fit within the ambit of s. 480. In furtherance of this investigation, the investigator sent the Demand to the Agent and the Agent did not respond. Given these facts, the onus shifts to the Agent to prove that he took all reasonable means to respond as required. As he did not reply to the Report or provide any additional evidence or submissions, the Agent has failed to prove that he acted with due diligence and we find him guilty failing to respond to the Demand.

In terms of the applicable sanction, the public relies on the AIC to investigate complaints and the Act requires that holders and even former holders, such as the Agent, provide information when called upon to do so. Therefore, the public is not well-served when agents simply ignore demands like those made in this case. In this case, the Agent has ignored the investigation. Pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001, the Council imposes a civil penalty in the maximum amount of one thousand dollars (\$1,000). The civil penalty must be paid within thirty (30) days of the mailing of this Decision. If the civil penalty is not paid within thirty (30) days, interest will begin to accrue.

Pursuant to s. 482 of the Act, 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 Life Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: March 16, 2017

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KENNETH DOLL  
Kenneth Doll, Chair  
Life 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