

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 Kai (Jonathan) Cheng
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Agent's Applications that he submitted to the AIC on November 25, 2016, September 22, 2017 and August 3, 2017, during which review information came to light that indicated that the Agent failed to provide information required by the Minister on his applications for Certificates of Authority to sell general insurance;

AND WHEREAS the review established that the Agent failed to disclose that he had been convicted of an offence in the last ten years on the 2016/2017 application he submitted on November 25, 2016, the 2017/2018 application he submitted on August 3, 2017 and the 2017/2018 application he submitted on September 22, 2017;

AND WHEREAS the 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 Agent and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Agent makes the following admissions and submissions:
 - 1.1.1. The Agent is the holder of a Certificate of Authority (K-2164079) to transact business as a general Insurance Agent and has been licensed since November 25, 2016;
 - 1.1.2. The Agent submitted an application for a Certificate of Authority for general insurance dated November 25, 2016. The Agent submitted an application for a Certificate of Authority for general insurance dated August 3, 2017. Both applications contained the following question: "In the last ten years have you: 12 (d) Been convicted of an offence under the Insurance Act, the Criminal Code or any other enactment?" In response to that question, the Agent answered "NO" on both applications;
 - 1.1.3. The Agent submitted an application for a Certificate of Authority for general insurance, dated September 22, 2017, to transfer his Certificate of Authority, which contained the following question: "In the last ten years have you: 12 (d) Been convicted of an offence under the Insurance Act, the Criminal Code or any other enactment?" In response to that question, the Agent answered "NO";

- 1.1.4. The AIC received an online renewal application completed on June 14, 2018 to sell general insurance that contained the following question: “In the last ten years have you: 12(d) Been convicted of an offence under the Insurance Act, the Criminal Code or any other enactment?” The Agent answered “YES” that on October 15, 2013 he was convicted of an offence by the Insurance Council of British Columbia. This was the first application that the Agent disclosed that he had been convicted of an offence;
- 1.1.5. In response to a letter from the AIC dated July 10, 2018, the Agent sent an email to the AIC dated July 23, 2018 explaining that the reason he did not disclose the conviction was that he failed to read the applications as “carefully as I should have.”
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 467 (1) (c) of the Act, and consequently violated section 480 (1) (b) of the Act for failing to provide information required by the Minister on the applications for certificates of authority.
- 3.0 The Agent 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 Agent by approving a decision in the form annexed hereto as Schedule 1, which provides for a civil penalty in the amount of \$500.00, in accordance with the penalties prescribed in section 13 (1) (b) of the Certificate Expiry, Penalties and Fees Regulation, A.R. 125/2001.
- 4.0 The Agent recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Agent 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 Agent is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Agent waives his right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Agent waives any existing right he may have under the Act or otherwise to a hearing, review, judicial review or appeal of this matter.
- 8.0 The 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 Agent recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Agent in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta 22nd day of August, 2018.

ALBERTA INSURANCE COUNCIL

PER:

[original signed by]

Trisha Lunt, Investigator

Dated at Surrey, in the Province of British Columbia, this 28th day of August, 2018.

[original signed by]

Kai (Jonathan) Cheng, Agent

In the presence of:

[original signed by]

Signature of Witness

[J.L.]

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 Kai (Jonathan) Cheung
(the "Agent")

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 the Agent's failure to provide the information required by the Minister on his applications that he submitted on November 25, 2016 August 3, 2017 and September 22, 2017 to sell general insurance;

AND WHEREAS as a result of information received, the Investigator and the 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 Agent has agreed to pay a civil penalty in the amount of FIVE HUNDRED DOLLARS (\$500.00) in relation to failing to disclose that he was convicted of an offence 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 FIVE HUNDRED DOLLARS (\$500.00) 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 October 3, 2018. This motion was duly recorded in the minutes of that meeting.

[original signed by]
Lorrie King, Chair,
General Insurance Council