

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 Cindy Sommer
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of the Agent's renewal applications completed on June 15, 2017, May 15, 2018 and June 18, 2019, during which information came to light that indicated the Agent failed to provide information required by the Minister on her 2016/2017, 2017/2018 and 2018/2019 applications;

AND WHEREAS the review established that the Agent did disclose her prior bankruptcy in her application of August 21, 2015 and failed to disclose her bankruptcy on her subsequent renewal applications;

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 (I-116056) to transact business as a General insurance agent and has been licensed since February 13, 2003;
 - 1.1.2 The AIC received an email from the Agent requesting acknowledgement that the AIC was aware of her Consumer Proposal on November 22, 2019;
 - 1.1.3 The AIC requested confirmation from the Agents Bankruptcy trustee as whether the Agent was currently in a Consumer Proposal or if she was in an Undischarged or Conditionally Discharged Bankruptcy on November 25, 2019;
 - 1.1.4 On January 16, 2020 the AIC received confirmation from the Agent's Bankruptcy Trustee, by email, that the agent filed bankruptcy on October 31, 2014 and was issued a Conditional Discharge Order on March 26, 2018;
 - 1.1.5 On February 3, 2020 the investigator contacted the Agent regarding the non-disclosure of her prior bankruptcy information to the AIC;

- 1.1.6 The Agent apologized to the investigator and advised that her withholding information was never intended to be deceptive or malicious in anyway. She stated she was misinformed; it was a misunderstanding and she followed incorrect advice. She confirmed there are no other issues to be disclosed. This is the first such contravention by the Agent.
- 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 *Insurance Act*, R.S.A. 2000, Chapter I-3 and amendments thereto (the “Act”) and consequently violated section 480 (1) (b)
- 3.0 The Agent and the investigator jointly recommend to the 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 \$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 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 their right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Agent waives any existing right they 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 setout herein.
- 10.0 This Agreement can be executed in several counterparts, each of which will be treated in the same way as an original, and all the counterparts will together make a single agreement.
- 11.0 This Agreement can be executed and exchanged by facsimile or other electronic means and in such a way is binding as if original signatures were used.

Dated at the City of Edmonton, in the Province of Alberta this 24 day of March, 2020.

ALBERTA INSURANCE COUNCIL

PER:

[Original signed by]

Lee Ann Nicholson-Miller, Investigator

Dated at the City of Calgary, in the Province of Alberta this 28 day of March, 2020.

[Original signed by]

Cindy Sommer, Agent

In the presence of:

[Original signed by] _____

Signature of Witness

[K.O.]

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 Cindy Sommer
(the "Agent")

DECISION OF
The General 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 Agent's non-disclosure of a prior bankruptcy;

AND WHEREAS as a result of the information received, the investigator and the Agent have 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 THREE HUNDRED DOLLARS (\$300.00) 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 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: April 17, 2020

Original Signed by
Amanda Sawatzky,
Chair General Insurance Council