

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 Simerpreet Dhami  
(the "Agent")

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

This case involved an allegation pursuant to s. 481(2) of the Act. It is specifically alleged that the Agent failed or refused to provide information requested by the Minister, through the AIC, by way of a formal demand for information (the "Demand"). In so doing, it is alleged that the Agent has subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated March 31, 2020 (the "Report"). The Report was forwarded to the Agent for review, and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. The Agent provided an addendum response which was considered by the Council.

The Agent held both life and Accident and Sickness ("A&S") insurance agent certificates of authority from the period of March 23, 2018 to March 5, 2020. On March 5, 2020, the Agent's certificates of authority were suspended due to her failure to respond to the Demand by the deadline provided.

The AIC conducted an audit in February 2020, which verified that the CE credits claimed on licensees' 2019 renewal applications were correct. The auditees randomly selected, and asked to provide proof of CE credits, in accordance with the requirements of s. 31 of the *Insurance Agents and Adjusters Regulation*, AR 122/01 (the "Regulation").

On February 3, 2020, the AIC emailed a formal Demand to the Agent which set a deadline of March 3, 2020 to respond and produce the requested CE certificates. The AIC received no response. On February 14, 2020, the AIC sent email correspondence which reminded the Agent to respond by the deadline

provided. The AIC also called the Agent on February 21 and 28, 2020, and left a voicemail messages to the same effect. The AIC also sent a courtesy email reminder on February 28, 2020, reminding the Agent to respond.

On March 2, 2020 the Agent requested an extension to the time period to respond to the audit request. The Agent was duly advised that an extension was not permitted under the Regulation under s. 31.

The Agent did not respond by the March 3, 2020 deadline required by the Demand. The Agent satisfied the requirements of the audit on April 6, 2020.

### **Discussion**

The Minister of Treasury Board and Finance has delegated its' authority to the AIC to investigate complaints against holders, and former holders, of certificates of authority. Pursuant to Ministerial Directive 01/11, the Minister has delegated powers under s. 481 of the Act to the AIC; “[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 in the direction any information specified by the Minister relating to the matters in s. 480(1).” Subsection 2 states that the “... A person served with a direction ... who has the information **must** provide the information in accordance with the direction” (emphasis added).

The Report referenced compliance with s. 31 of the Regulation. Specifically, this section provides;

#### **Records**

31(1) An individual who holds a certificate of authority must keep a record issued by a continuing education provider respecting the continuing education courses completed by the individual during that certificate term.

(2) The records must be kept for a period of 3 years following the expiry of the certificate term and must be provided to the Minister upon request.

(3) If the individual does not provide the records within 30 days after receiving a request from the Minister, the certificate of authority is suspended until the demand is complied with.

A violation of s. 481(2) of the Act is one of strict liability. Meaning that, in order to be found guilty, the AIC must prove that the Demand was properly constructed and delivered to the certificate holder. Once the AIC has proven that the Demand was served, the onus then shifts to the agent to demonstrate that all reasonable steps were taken to avoid making the offence. There is nothing that requires the AIC to prove that the Agent's failure to respond was intentional.

In consideration of the evidence before it, and s. 31 of the Regulation, the Council is satisfied that the Demand met the requirements of s. 481 of the Act. The Council agreed that the Agent was given a reasonable opportunity to respond. The Agent did not have access to the CE records immediately, and satisfied the audit sometime later after corresponding with various education providers. Given the fact that the Agent failed to respond when called upon, the Agent has not met the burden of proof to establish the due diligence defence. As such, the Council finds the Agent guilty of violating s. 481(2) of the Report.

In terms of the applicable sanction, the Act requires that all certificate holders produce information when called upon to do so. The public is not well-served when agents fail to comply with demands, like the Demand made in this case. Pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001, the Council has the discretion to levy a civil penalty in an amount up to \$1,000.00. In this case, the Agent was not able to satisfy the audit by the deadline provided. In consideration of all of the evidence, the Council orders that a penalty in the amount of \$500.00 be levied against the Agent.

The civil penalty of \$500.00 must be paid within thirty (30) days of the mailing of this Decision. In the event that the civil penalty is not paid within thirty (30) days interest will begin to accrue at the prescribed rate. If the Agent has active certificates of authority at the time that the civil penalty becomes due, and that civil penalty has not been duly satisfied, the Agent's active certificates of authority will be suspended. Pursuant to s. 482 of the Act (excerpt enclosed), 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.

Dated: May 21, 2020

[Original signed by]  
Michael Bibby, 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