

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 James King  
(the "Agent")

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

This case involved an alleged violation of s. 481(2) of the Act. Specifically, 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 subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated April 16, 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 AIC conducted an audit in May 2019, which sought to verify that the continuing education credits (often referred to as the "CE Credits", "CE Certificates" or "CE records") claimed applicants' 2019 renewal applications were correct. The auditees were selected at random 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"). The Agent was selected as an auditee.

The Agent is the former holder of both life and accident & sickness ("A&S") certificates of authority. The Agent held a life certificate of authority between the period of January 5, 1996 to June 30, 2019 and concurrently held an A&S certificate of authority between the periods of January 5, 1996 to February 15, 2013.

On June 3, 2019, the AIC emailed the Demand to the Agent which provided him 30 days to produce CE records for each certificate of authority that he held between the period of 2016-2018, in accordance with s. 31 of the Regulation.

On June 15, 2015, the Agent responded and advised that he had moved offices and was not able to locate the CE records. The Agent was advised to contact the continuing education providers and obtain the required CE records to satisfy the request made in the Demand.

On June 25, 2019, the Agent responded by providing copies of various CE certificates. The Agent did not provide all of the required information as set out within the Demand, and as such, the matter was brought before this Council for review.

### **Discussion**

The AIC has been delegated the authority through the Minister of Treasury Board and Finance to investigate complaints against holders 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 in the direction any information specified by the Minister relating to the matters in s. 480(1).” Subsection 2 states that “... A person served with a direction ... who has the information must provide the information in accordance with the direction.”

The offence of failing to respond to a demand for information is one of strict liability. Meaning that in order to be found guilty the AIC must only prove that the Demand was properly made and delivered. There is no requirement on the AIC to prove that the Agent’s failure to respond was intentional. Once the AIC proves that the Demand was properly constructed, the onus shifts to the Agent to demonstrate that he took all reasonable efforts to avoid making the offence. In consideration of the Report the Council is satisfied that the AIC’s Demand meets the requirements of s. 481 of the Act. Given the fact that the Agent failed to provide the information as requested in the Demand, he has not met the burden of establishing the due diligence defence. As such the Council finds her guilty as alleged in the Report.

In terms of the applicable sanction, the public relies on the AIC to investigate complaints, and the Act requires that all current and former certificate holders provide all of the necessary information when called upon. The public is not well-served when an agent fails to comply with a demand, like those 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 assess a civil penalty in an amount up to \$1,000.00. In this case, the Agent did not respond in full to the Demand and the Council orders a civil penalty in the amount of \$750.00.

The civil penalty of \$750.00 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. 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: August 14, 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