

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 Phyllis Cameron
(the "Former Agent")

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

This case involved allegations made pursuant to s. 480(1)(a) and, in the alternative, s. 509(1)(a) of the Act. Specifically, it is alleged that the Agent knowingly withheld or provided false information relating to the insurance application of the insured. In so doing, it is alleged that she is guilty of misrepresentation, fraud, deceit, untrustworthiness, or dishonesty as set out in s. 480(1)(a) of the Act. In the alternative, it is alleged that the Agent made false or misleading statements or representations or advertisements in violation of s. 509(1)(a) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to the Council dated March 6, 2020 (the "Report"). The Report was forwarded to the Former Agent to review and provide further evidence or submissions to support her position. The Council also considered the "*Investigator's Addendum to the Report to Council*" dated June 30, 2020, and the Applicant's response thereto, dated July 1, 2020.

The Former Agent previously held a certificate of authority authorizing her to act in the capacity of an accident and sickness ("A&S") insurance agent, and held this certificate between the period of March 28, 2018 to September 27, 2019.

On September 27, 2019 the AIC received a "Notice of Termination of Sponsorship" from the Former Agent's employer, (the "Agency") (the "Notice of Termination"). The Notice of Termination advised that the Former Agent was "[...] terminated as of Sept.[sic] 25, 2019 for the following reason(s): **Violation of Company Policy**" (emphasis in source document).

The Notice of Termination continued:

Ms. Cameron failed to provide full, complete and accurate information to the insurer, in that she submitted an accident insurance application for a proposed insured who had already been injured before the insurance application was completed

The AIC investigator requested further particulars regarding the termination of the Former Agent. On November 5, 2019 a representative of the Agency advised;

Thank you for your letter dated October 17, 2019, in relation to the above-mentioned file. As requested, please find enclosed the following documents:

1. A Case Summary in which you will find a chronology of the events leading to Ms. Cameron's termination (Enclosure A).
2. A copy of the hospital report (Enclosure B), showing that client C. P's [redacted] son T.B [redacted] was registered in the Emergency room at 12:10 on June 2, 2019.
3. An email containing an excerpt of the Company's eAgent report (Enclosure C), showing that the sale was finalized and submitted to the Company at 20:12 on June 2, 2019, which was about 8 hours after the accident. "eAgent" is the name given to the Agency's electronic sales platform used by its sales representatives.
4. A copy of the statement received from Ms. Cameron after the first interview with her on August 19, 2019 (Enclosure D).
5. A copy of the statement (email including screenshots) dated August 26, 2019 received from Ms. Cameron, about the sale to C.P (Enclosure E).
6. A copy of various emails received from Ms. Cameron after the second interview with her on September 10, 2019, which contradict her previous versions (Enclosure F).
7. A copy of the termination letter issued to Ms. Cameron (Enclosure G).

The Alberta Health Services Emergency Department Nursing Assessment provided "*Upper Extremity Injury [...] Pt. fell off teeter totter, was standing in middle of same like "surf board" and fell forward. Pain to (R) lateral wrist – "10/10" pt. in no distress. Obvious deformity. Guarding same.*" The Assessment confirms that the intake time was 12:10 p.m. on June 2, 2019.

The Agency's timestamp records corroborate the Agency's recounting of events as set out in paragraph 3 to their letter of November 5, 2019, whereby "*the sale was finalized and submitted to the Company at 20:12 on June 2, 2019, which was about 8 hours after the accident.*" as follows;

| Policy Number | Sync Status | Status | Signed Province | App Date | Created On | Modified On |
|---------------|-------------|--------|-----------------|----------------|----------------|----------------|
| HAB***** | Yes | Active | AB | 6/2/2019 20:12 | 6/2/2019 21:02 | 8/7/2019 20:32 |
| OAB***** | Yes | Active | AB | 6/2/2019 20:12 | 6/2/2019 21:02 | 8/7/2019 20:33 |

App Date – Indicates the local date and time of application signed by the customer based on the signed state (Timezone might differs [sic] based on the Signed State and it will be in 24 hrs format).

Created On – Indicates the date and time of application synced from iPad to CRM (always in CST)

Modified On – Indicates the date and time of application processed from CRM to the downstream systems (always in CST).

[Emphasis added in source document]

The Agency conducted an interview with the Former Agent on August 19, 2019 via telephone. The Agency requested that the Former Agent provide a written summary of what was discussed. The supporting email chain provides;

[...] Following our conversation today, can you please send me email [sic] confirming what you told me over the phone?

Beside [sic], can you please provide me any evidence about your sale with the client at 8:00 a.m. on June 2, 2019 in a Tim Horton? [sic] Any text messages, email and or phone call would be help [sic].

[Agency Representative]

[Former Agent's response]

My client C.P. [redacted] had a presentation 3 weeks prior, however did not have funds at the moment and also wanted to meet again without children. At the time they were misbehaving.

The weekend C.P. mother took her 2 children for weekend [sic]. I was booked up, but agreed to meet her about 8-8:30 am at Lacombe Tim hortons [sic] prior to her picking up children. She signed. I met other clients thru [sic] out day [sic]. She phoned me in late afternoon, hysterical asking if she had to wait to put claim in. I asked her what was wrong, and what happened. She said she was at the hospital with oldest son n [sic] waiting on x ray. Told her to keep me posted. He fell while she was visiting with her parents upon retrieving her children at campground in afternoon.

I will look to see if I still have my receipt from Tim hortons [sic]. Other than that it was verbal phone calls for arranging meeting. [...] I did not sync until I returned later in the evening once finished with various appointments throughout the day. Once home to my wife I synced.

A second telephone interview was conducted by the Agency on September 10, 2019. It was again requested that the Former Agent recall the conversation from her recollection, in writing. The Former Agent responded by way of email dated September 10, 2019, as follows, in part;

This is a reply requested by you in interview:

I did not mention child's accident as it honestly slipped my mind. Had I seen the child or mom rementioned I wouldve [sic] remembered that day. It was not intentional by any means. Now that I'm reminded of it i [sic] realize i [sic] was very wrong to have not reported.

I want to bring to attention how i [sic] was trained. My district leader whom i [sic] stared with. J.B. [redacted]. I watched him fill out claims forms, he advised clients what to do. He was reported by 5 other agents trained by him. J.B. told me we are allowed to help clients with claims forms. J.B signed on ppl [sic] knowing they had an accident, and advised them not to see doctor if they can help for a couple of days later to not look suspicious. He was video taped filling out claims forms. Sales leader L[redacted] had her unlicensed boyfriend jt [sic] do presentations. J.B. was confronted in front of them that this was wrong. His reply was "what they dont [sic] know doesnt [sic] matter. Dont [sic] make a big deal out of it"

Yes I started signing on client in am. Finalized afternoon. I thought because I had already started that this was ok. I completely forgot the child.

This was a mistake. People learn by mistakes. I am still trying to figure out right from wrong, from being trained wrong. If J.B had done all of these wrongful compliances (compared to my one unintentional mistake) why was he not terminated even with 5 agents reporting and with a video tape for evidence?. J.B. signed on many clients, once they received claims

they'd cancel. Sign up again later date with another accident [sic]. That clearly is fraud. I did not have any thoughts at all or intend of any fraud in this matter [sic].
[...] please given how I had a bad trainer to be lenient on understanding this is a huge lesson learnt that I wont [sic] ever repeat this. Suspend me if you must. [...]

On September 12, 2019 the Former Agent advised the Agency;

I kept asking myself over n [sic] over why I didnt [sic] report. I remember I saw on Facebook pic [sic] of child with cast. I did not associate that child as hers. I have never seen her child other than years ago as a baby. I did not place that child as hers. At time of finalizing the sale it was never mentioned by either party. After she asked me to meet her to check her claim, however she forgot her papers. I never even saw her filled out claim. I did not ask when the accident [sic]. Only that her son broke his arm. That's when I put two n [sic] two together and realized then that that pic [sic] was her son!. I told her if she filled the claim form out and has dr. [sic] Report that's all she needs and it's up to underwriter not me. Sorry with lots happening at home [...] I couldn't answer why I didn't mention that day. I should have reported the day she mentioned claim. So yes I did not report day of sign up as she did Not [sic] say her son broke his arm. I did not know the day of sign up. Yes I saw pic [sic]. But did Not [sic] associate that as her child. It was not mentioned it was her child either.

The Former Agent sent three additional emails to the Agency on September 12, 2019, which provided;

I am still trying for am proof, but I'm thinking that was all verbal. Tim horton [sic] manager knows me well. She remembers me sitting with C.P. but cant [sic] say if it was June 2. [...] Also as to fixing from bad training, which was reported and was main reason I do not want to be under J.B. I saw things that I was not comfortable with. [...] I am trying very hard to do the best job possible.

[...] The only text I have was the 12:30 and Facebook meeting that took place in evening. [...] I saw her in am and finalized in PM. I mixed her up with another client who put in a claim due to broken arm. I did not know that was her child by only seeing a pic [sic]. The hysterical client was not C.P. it was S.K. [redacted] another client. I have not given false or misleading representation just trying to get clients n [sic] facts properly to right client. [...] I dont [sic] have her number until after June 9th. It was facebook and verbal and or phone thro [sic] my son. [...]

[...] When I checked all text n [sic] Facebook n [sic] records I have nothing. All I have is proof of ppl [sic] seeing me. Ppl [sic] I knowing [sic] who I was meeting early. Nothing else. I cant [sic] find receipt. I could get one but anyone can. So nothing I can do.

The Former Agent enclosed copies of text messages between herself and the client, C.P. The text messages provided;

Former Agent: Be there about 6 if ok?

[JUN 2 AT 1:18 PM]

[Former Agent] Then now get his name off van

[Former Agent] His phone number is?

[JUN 2 AT 4:07 PM]

[C.P] *encloses photo of young boy with arm in cast*

[C.P] You bet

[Jun 2 AT 7:05 PM]

[C.P] M.A. [redacted] 403*****

[JUN 2 AT 8:36 PM]

[Former Agent] [redacted]

[JUN 2 AT 9:04 PM]

[C.P] [...] I always put him as an emergency contact [...]

The Agency investigated the Former Agent's conduct. The Agency concluded its' investigation and advised the Former Agent of their findings, which resulted in her termination:

[...] You provided us different versions regarding the sequence of events, that were contradictory on many aspects. For example, at the beginning of a telephone interview, you kept saying that the sale to this client took place in the morning before her child got injured. It is only after we told you that our system report indicates that the sale took place at the end of the day (after the accident) that you admitted that fact. We have evidence showing that you were aware of the accident before completing the sale. It is our conclusion that you submitted the sale to the Agency to allow the above client to submit a fraudulent claim.

On January 9, 2020 the AIC asked the Former Agent to provide further information regarding her termination. The AIC asked;

[...]

we require that you provide us with the following:

1. Your recollection of the facts and events surrounding C.P.'s insurance application.
2. An explanation as to why the time stamp on the eAgent report shows the policies were sold at 8:12pm on June 2, 2019, while the hospital report showed that the child was in the ER room at 12:10pm on June 2, 2019.
3. Any additional information or documentation which will assist in understanding the material facts related to this matter.

The Former Agent provided two email responses on January 9, 2020, as follows;

[...] As I stated to the Agency, I DID NOT know of my clients [sic] injuries. I started signing her up on a family plan in am on sun [sic]. She did not have her banking info [sic] at the time so I agreed to meet with her in eve [sic]. The same day. During the day she posted a picture of her son with broken arm. She did not say in the post this was her son. It was just a picture. I did not nor ever see her son since he was an infant, nor was it mentioned to me upon completion of signing that he had a broken arm. I did NOT know.

Upon interrogation of Agency I told them of putting the picture and accident together. They were made aware 3 weeks after fact. However accused me of knowingly completing a the sale [sic]. I admitted seeing the picture but did not know who he was until weeks after.

[...] I have no documentation. Just the truth. I tried to sign her up on lap top [sic] in am. I was having issues with it. Also she did not have banking info [sic]. We agreed I'd fix my computer and re meet up in eve [sic]. I did that. I deleted any open account, thinking that was my computer glitch. I met up with her in eve [sic]. Signed went on my way. [...]

On January 13, 2020 the AIC investigator requested further clarity;

[...] could you please also provide me with the following information:

- An explanation as to why, on June 2, 2019, at 4:07 pm you appear to have received an image of a child with his arm in a cast from C.P.
- Further, and in consideration of the image of a child with his arm in a cast sent to you from C.P., please respond directly to the following:
 - What was your understanding of this image?
 - Why did C.P. send you this image?
 - Did you discuss this image with C.P. at any time?
 - If so, when and what was discussed?
 - If not, why not?
 - Provide any/all additional information or documentation which will assist in understanding the material facts surrounding the image in question.
- A copy of your entire text, email, and facebook conversations from June 2, 2019, with C.P

- Copies of any/all substantiating documentation showing that you met with the client, C.P, twice on June 2, 2019. This could be any combination of:
 - Screenshots of texts, emails, and/or facebook messages
 - A copy of your phone logs from the date in question
 - Receipts from Tim Hortons showing when you were there
 - Screenshots of your bank account showing the timestamps of when purchases were made
 - Etc.

To which the Former Agent replied;

I did not receive pictures from C.P. She posted a picture on her facebook of a child with a cast. It was on facebook for all to see. I saw it as stated on news feed. I have only seen her child years ago as a baby. I did not know what he looks like presently nor did she state on news feed this was her child.

I met with her on sun [sic] am. I had issues with lap top [sic] which Agency was dealing with many agents. She also did not have banking info [sic]. I reset with her in the evening after deleting and reinstalling etc. I signed her on that same evening. I did not know of her son and broken arm. Yes I knew at a much later date, yes I informed my superiors. I did everything I was supposed to. Only to have Agency turn their back. I did NOT back date. I did not know of accident until I received a phone call from claims department. Only thing I'm guilty of is I had to admit seeing that picture the same day as signing her, that I should of [sic] assumed was her child or I should of been nosy and asked or assumed. I didn't take it upon myself to do so as there's lots on social media. I was NOT aware the day of the accident until I received your letter. Agency never even told me.

[...]

Will go to my bank to see if I pd [sic] by debit card. Online only goes back 6months [sic]. Also I'm hoping you get the truth.[...]

The AIC corresponded with the Agency on a matter of fact relating to the Agency's investigation. On January 13, 2020 the AIC Investigator inquired;

In her statements after her second interview (copy attached hereto), Ms. Cameron makes reference to her confusion between C.P. and another client of hers named S.K. (p.8).

Accordingly, I have the following questions:

- Did the Agency ever look into this?
 - If so, was S.K an actual client of Ms. Cameron?
 - If so, can you verify if S.K legitimately called Ms. Cameron on June 2, 2019?
 - If there was a legitimate call, can you verify the details surrounding the alleged claim (i.e. who and what was the claim for, when was the claim made, etc.) made by S.K. on June 2, 2019? [...]

The Agency responded;

[...] yes, we did look into the alleged confusion that Ms. Cameron had between C.P. and another client named S.K. We identified S.K. as being an actual Agency client who purchased two policies from Ms. Cameron in January 2019.

Client S. K.'s son was in an accident which occurred on July 15, 2019. Since this accident occurred in mid-July, client S.K. could not have called Ms. Cameron on June 2, 2019 about an accident that had not yet occurred. [...]

On March 23, 2020 the Former Agent advised that she could not access records due to restrictions imposed by the COVID-19 Pandemic. An extension of time was granted to the Former Agent. The Former Agent expressed;

With this virus going on...I cant [sic] get to library to print off. I can get a letter from client S.K. who did call mr [sic] but did not put claim in for her child. She did for her other child at a later date.

So all I can give you is my word until this virus is over...

I did not nor will I admit I signed C.P. a policy knowing her child had already had an accident.

I have stated over n [sic] over. I met with her in am. She did not have her banking info [sic] so we remet in the evening.

Yes on facebook was a picture of a boy with a cast. I have never seen her child except as a baby. The pic [sic] did not state it was her child. (I scroll thro [sic] facebook so at time did not even notice who posted)

I put everything into that computer again as I could not find her needs assessment. Started over and signed her on. I have never ever or I would never sign insurance to anyone if I knew they already had an accident or sickness. I have repeated and stated this numerous times. I am not guilty.

[...]

I was pressured by Agency to answer immediately. So I could not retrieve apt. [sic] Books n [sic] calendar.

[...]

Also to add...I did not know of any claim of C.P. until first phoned [sic] call from Agency. They did not give me her name right away. I thought it was another client. Nothing I have ever said has been misleading. I was dealing with very sick husband. Seeing many many ppl [sic]. I easily confused her with other clients phoning me.

The AIC Investigator received a statement from the Former Agent with respect to the former client, S.K who advised;

To whom it may concern, I had discussed my claim with Phyllis the day after I signed up for insurance through her for Agency. But I decided not to claim it. At a later date, I had put in a claim for my other child..

On April 8, 2020, the Agency provided the AIC with an additional exchange between the Agency and the former client, S.K, as follows;

As discussed this morning, please find an email (below) we just received from one of our sales representatives [Redacted], along with a copy of text messages (attachments) she apparently exchanged with S.K. on April 3-4, 2020.

[2:37 p.m.] [S.K] Phyllis got ahold of me to write a letter for her to the company. I guess she's in trouble or something

[2:38 p.m.] [Agency Agent] Oh, im [sic] not sure.. Thats [sic] interesting. Thats [sic] your other rep?

[2:40 p.m.] [S.K] Yup the one that was cheating the system

[2:49 p.m.] [Agency Agent] Lovely.. Are you writing anything then?

[3:00 p.m.] [S] I did yes but she says that I'm not lying but I don't remember calling her about S.A. But she told me not to put the gender or names in it. She apparently needed by 1pm today
U [sic] might have to look into it

[3:28 p.m.] [Agency Agent] Whats [sic] her full name?

[3:28 p.m.] [S.K] Phyllis Cameron

[3:30 p.m.] [Agency Agent] I'll make my boss aware. Is it okay if I give him your number just in case? [...]

[3:39 p.m.] [S.K] Sure

[1:12 p.m.] [Agency Agent] Hey [S.K], so I guess phyllis has been terminated already. Can you send me a brief summary of whats [sic] been happening?

[1:13 p.m.] [S.K] Well this is what she sent me

Hi S.K its phyllis. Basically clearing my name. I had a client place a claim same day as signing. I got a call from insurance that this was happening I told them I knew as I got the call in evening. I thought it was you for S.A. But you didn't make a claim. You did make a claim for your son. So they think i [sic] made it up first time you called. Hence y [sic] I need a letter signed by you. I have to have it today. By 1 please. All you have to say is truth that yes you spoke to me the day after signing of your child falling down stairs [sic]. However after speaking to me you decided not to claim. But did claim a later date on another child. That's it no sex is required and no names are needed of children. Just you signing. Please email me so I can send right away.

[1:17 p.m.] [S.K]

She was selling policies and then after awhile she would come back and say that there was a better policy that was new and got us to sign up for it and cancel the old ones. [...] Plus with this text, I can tell the client was not me cause she didn't want names or genders [...]

The Former Agent also provided text messages between herself and S.K which stated;

MAR. 30 AT 2:36 P.M.

Former Agent: Hey S.K. wondering if you can help me. I need to know if I can get a letter from you. The very day I signed you up... your daughter had an accident. All I'm asking is you to email me a letter stating. You phoned me the next day as your child had an accident and enquired about coverage. However you decided not to claim. A later date you did place a claim for one of your children. That's all you have to say! I'd appreciate it before wed [sic]. Just a quick note. Please. [redacted] No need to mention sex of child or children names.

And continued;

This is what I asked her. When I said not to mention kids names I was trying to be confidential on her part. Sorry guess that was wrong.

Once again i [sic] DID NOT knowingly sign C.P. up knowing her child already had an accident. When i [sic] was first called i [sic] mixed my clients up.

In response to the entirety of the Report and the Investigator's Addendum, the Former Agent responded;

I asked her so that the council would see i [sic] mixed her up. She admitted her daughter had an accident but did not claim. Her son later had an accident and claimed.

As for going back...that was their request as I documented the first time. They could only afford insurance they purchased first time and requested md [sic] to come back at a later time when her husband [Redacted] was back at work. Which I did. As for not mentioning sex...i [sic] was trying to maintain confidentiality but, i [sic] guess it didnt [sic] matter. I will still state it was a mix up of clients and md [sic] going thro [sic] stressful timd [sic] at home due to husbands health n [sic] pressures. I still maintain and will always no matter what. Truth prevails. I did not knowingly sell any insurance with the knowledge of knowing any accident had already occurred.

Discussion

The Report alleges that the Former Agent misrepresented information or acted in a fraudulent, deceitful, dishonest or untrustworthy manner pursuant to s. 480(1)(a) of the Act. The applicable test to determine whether the Former Agent is guilty of this offence was set out in *Roy v. Alberta (Insurance Councils Appeal Board)*, 2008 ABQB 572 (hereinafter "*Roy*"). In *Roy*, the Life Insurance Council found that the agent committed a violation of s. 480(1)(a) of the Act when he attested to completing continuing education credits that he did not complete. The agent advanced the matter to appeal before the Insurance Councils Appeal Board. The Insurance Councils Appeal Board upheld the decision of the Life Insurance Council and concluded that the agent was guilty of violating s. 480(1)(a) the Act. The agent appealed the decision of the Insurance Councils Appeal Board to the Court of Queen's Bench of Alberta.

In his reasons for judgment dismissing the appeal, Mr. Justice Marceau of the Court of Queen's Bench wrote, at paragraphs 24 to 26:

[24] The *Long* case, albeit a charge under the Criminal Code of Canada where the onus of proof is beyond a reasonable doubt (not on a preponderance of evidence as in this case), correctly sets out the two step approach, namely the court or tribunal must first decide whether objectively one or more of the disjunctive

elements have been proven. If so, the tribunal should then consider whether the mental element required has been proved. While the Appeal Board said it was applying the *Long* decision, it did not make a finding as to whether step 1 had been proved with respect to each of the disjunctive elements. Rather it immediately went into a step 2 analysis and found that the mental element required for untrustworthiness might be less than the mental element required for fraud (as a given example).

[25] I am of the view that statement was in error if it was made to convey a sliding scale of *mens rea* or intent depending on which of the constituent elements was being considered. In my view, the difference between the disjunctive elements may be found in an objective analysis of the definition of each and certainly, as demonstrated by the *Long* case, what constitutes fraud objectively may be somewhat different from untrustworthiness. However once the objective test has been met, one must turn to the mental element. Here to decide the mental element the Appeal Board was entitled, as it did, to find the mental element was satisfied by the recklessness of the Applicant. (Emphasis added)

[26] While the language used by the Appeal Board may be characterized as unfortunate, on this review on the motion of the Applicant I need not decide whether the Appeal Board reasonably could acquit the Applicant on four of the disjunctive elements. Rather, the only matter I must decide is whether the Appeal Board acting reasonably could conclude, as they did, that the Applicant's false answer together with his recklessness justified a finding of "untrustworthiness". (Emphasis added)

In order to conclude that the Former Agent has committed a violation of s. 480(1)(a) of the Act, the Report before the Council must prove, on the basis of clear and cogent evidence, that it is more likely than not that the Former Agent committed the act as alleged. Section 480(1)(a) of the Act provides;

Sanctions affecting certificates

480(1) If the Minister is satisfied that the holder or a former holder of a certificate of authority

(a) has been guilty of misrepresentation, fraud, deceit, untrustworthiness or dishonesty,

[...]

the Minister may revoke, suspend or refuse to renew or reinstate one or more of the certificates of authority held by the holder, impose terms and conditions provided for in the regulations on one or more of the certificates of authority held by the holder and impose a penalty on the holder or former holder

The Council considered the Former Agent's version of events. Although the Former Agent maintains her innocence throughout, the Former Agent also stated "*This was a mistake. People learn by mistakes. I am still trying to figure out right from wrong*". The Council considered whether the Former Agent committed the act knowingly, willingly or recklessly. The Council drew serious inconsistencies from the Former Agent's recollection of events and were troubled by the communications with the former client, S.K. The AIC provided an extension and additional periods to respond to both the Report and the AIC Investigator's Addendum. The Former Agent was afforded a reasonable and ample opportunity to respond. The Former Agent only responded in part to the AIC Investigator's questions. Had the Former Agent been completely innocent of the act, the Council found it was more likely than not that the Former Agent would cooperate with full responses to provide a detailed recounting to support her innocence. The

Former Agent did not produce meaningful records to corroborate her explanation. In recognizing her mistake or oversight, the Council found that the Former Agent had committed the act knowingly, recklessly, or willingly.

With respect to the act itself, the Council found that the back-dated filing of C.P's insurance application was in all likelihood done to benefit the client. Insurance consumers and insurers rely on insurance agents to make appropriate recommendations and to comply with Alberta Legislation. Therefore, it is not unreasonable to expect that a high standard of due diligence is practiced by insurance agents when completing insurance applications. Insurers and consumers rely on the expertise and competency of insurance intermediaries to effect appropriate coverage. Here, the Underwriter confirmed that the client's son's injury occurred before the filing of the insurance application. Honesty and trustworthiness are the hallmarks of an effective insurance agent. An abuse of this sort could have resulted in undue financial hardship to the insurer. The Council therefore concluded that the Former Agent's misstatements were made fraudulently, dishonestly or deceitfully to benefit the client.

The Council finds that clear and cogent evidence was presented to satisfy the objective and subjective elements of a s.480(1)(a) violation. As such, the Council finds the Former Agent guilty of one count of violating s. 480(1)(a) of the Act. In light of the above, the Council did not consider the alternative alleged offence under s. 509 of the Act.

Pursuant to s. 13(1)(a) of the *Certificate Expiry, Penalties and Fees Regulation*, the Council has the jurisdiction to levy a civil penalty in an amount not exceeding \$5,000.00 in relation to each demonstrated violation of s. 480(1)(a). This is the Agent's first disciplinary offence, and the Agent was licensed for under one year. The Council agreed that a significant civil penalty was warranted in the circumstances. As such, the Council orders a civil penalty in the amount of \$5,000.00 to be levied against the Former Agent.

The civil penalty of \$5,000.00 must be paid within thirty (30) days of receiving this notice. In the event that the 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 Former 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: September 18, 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