

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 Matthew Bergin  
(the "Agent")

**AGREED STATEMENT OF FACTS AND JOINT SUBMISSION**

WHEREAS the AIC conducted an investigation into the Agent based on allegations from the Agent's former agency, Libel Insurance Group (the "Former Agency");

AND WHEREAS the investigation established that the Agent intentionally misrepresented coverage whereby the Agent sent confirmations of insurance to clients, provided pink cards, and took change requests on policies despite the Agent having failed to bind policies for three separate clients;

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 General Agent's Certificate of Authority (I-144246). The Agent has remained continuously licensed since March 19, 2012.
  - 1.1.2 On March 13, 2019, the AIC received a complaint from the Former Agency alleging that, during the period of May 2018, to February 2019, the Agent failed to bind policies for at least three separate clients despite the Agent having sent confirmations of insurance, and pink cards, to the clients.
  - 1.1.3 The Former Agency also provided evidence showing that the Agent took multiple change requests on the various unbound policies and advised the respective clients that the changes had been made when in actuality none of the requests or changes were entered into the Former Agency's broker management system and none of the changes or requests were processed and/or submitted to the insurance companies.
  - 1.1.4 The Former Agency provided a copy of an email from February 27, 2019, whereby the Agent stated,

*Yes when the vehicle Substitution was sent in I noticed no documents were received and not a bound account. I was both too ashamed and embarrassed to address the issue. It was not my intention to jeopardize the business of the client or Leibel Insurance Group.*

- 1.1.5 The Agent has acknowledged and accepted responsibility for these issues with the Former Agency.
  - 1.1.6 On January 30, 2020, the Agent responded to a demand for information from the AIC and, in response to the request that the Agent provide his explanation as to why he issued confirmations and pink cards to clients despite not binding insurance, the Agent stated, "I thought I had it bound, it was an oversight by mistake".
  - 1.1.7 Further, in response to the request that the Agent provide an explanation as to why he did not disclose the issues to the clients and/or the Former Agency upon discovery, the Agent stated, "incompetence on my behalf".
  - 1.1.8 On June 24, 2020, the Agent emailed a licensing officer with the AIC and advised that,  
  
*I provided pink cards and binder certificates of insurance to a former client that I thought was bound with the insurer. The binder request was not submitted and there was a claim against the client. I have admitted my fault and am in the process of making my former employer whole with restitution payments that are ongoing. I was sued for damages and increased E&O insurance premiums.*  
  
*Since joining the Co-operators and my local agency I have gained additional training and comply with rigorous workflow standards where this mistake will never occur in the future.*
  - 1.1.9 The Agent has reported, and the Former Agency has confirmed, that no premiums were charged to the clients at issue and the Agent did not receive any commissions from the unbound policies.
  - 1.1.10 This is the first recorded occurrence of a contravention of the Act and/or Regulations for the Agent as the Agent has not been previously disciplined by the AIC.
  - 1.1.11 The Agent is aware that any similar occurrence may potentially result in a fine as high as \$5,000.00 per each occurrence of intentionally misrepresenting coverage.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 480(1)(a) of the Act as the Agent is guilty of misrepresentation, fraud, deceit, untrustworthiness, and/or dishonesty as a result of the Agent's intentional misrepresentation of coverage.
  - 3.0 The Agent and the investigator jointly recommend to the The General Insurance Council (the "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 \$5,000.00 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 the matter is described above.
- 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 Calgary, in the Province of Alberta this 23 day of SEPTEMBER 2020.

ALBERTA INSURANCE COUNCIL  
PER:

[original signed by]  
Nicholas Woodhouse,  
Investigator

Dated at the City of EDMONTON, in the Province of Alberta this 15 day of October, 2020.

[ORIGINAL SIGNED BY]

Matthew Bergin, Agent

**In the presence of:**

[redacted]  
Signature of Witness

[J.B.]  
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 Matthew Bergin  
(the "Agent")

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

WHEREAS the AIC conducted an investigation into the Agent based on allegations from the Agent's former agency, Libel Insurance Group;

AND WHEREAS the investigator of the AIC made a request for information in relation to an investigation being conducted by the AIC into the Agent for intentionally misrepresenting insurance coverage;

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 that the Agent will pay a civil penalty in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) 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 FIVE THOUSAND DOLLARS (\$5,000.00), 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 The General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: March 10, 2021

[Original signed by]  
Chair General Insurance Council