

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 Milica Kukic  
(the "Agent")

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

This case involves allegations pursuant to s. 480(1)(a) of the Act, or alternatively, s. 509(1)(a) and s.480(1)(b) of the Act. Specifically, it is alleged that the Agent altered two claims experience letters from the Agent's Agency, and also that the Agent altered the content of emails sent to the insurer and Agency. In so doing, it is alleged that the Agent acted in a dishonest, deceitful, or untrustworthy way and/or that the Agent is guilty of misrepresentation as contemplated by s.480(1)(a) of the Act. In the alternative, it is alleged that the Agent made false or misleading statements, as contemplated by s.509(1)(a) and subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated January 15, 2020 (the "Report"). The Report was forwarded to the Agent for her review and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. In arriving at its conclusion, the Council carefully reviewed all evidence presented.

The Agent currently holds a general level 2 certificate of authority which authorizes her to operate in the capacity of a general insurance agent. The Agent has held a general insurance certificate from February 7, 2003 to present.

This matter arose from a complaint received by the AIC on June 10, 2020 from an Insurer engaged in business with the Agent and the Agency. The complaint alleged that the Agent and/or the Agency unilaterally changed claim experience letters and provided the altered experience letters to a third-party insurer. The Complainant

Insurer provided copies of the alleged altered documentation on June 15, 2020. The Complainant Insurer provided an investigative report dated 2019 (the “Investigative Report”).

The Investigative Report provided;

On February 28th, 2019 [the Complainant Insurer] were informed by [third party insurer] that they received a CEL [Claim Experience Letters] letter from Mia Kukic with [Agency][redacted] in which they had questions about [sic]. After review of the claims experience letter that was received by [third party insurer] it was discovered that this was not the letter that was drafted by [Complainant Insurer] department and provided to [Agency]

We had looked further into details pertaining to the above in which will be further discussed in this report. [...]

### Findings

[...] A total of three (3) letters were drafted by [Complainant] to [Agency] for this specific client. Each letter is detailed as follows:

1. This was the initial claims experience letter which listed the liability incident, amount paid and the insureds grid rating.
2. Mia had requested that [Complainant] draft another letter that specifically disclosing the operations of the client. The letter was drafted by [Complainant] underwriting and sent to Mia as per her request.
3. Mia had requested that [Complainant] draft another letter to show the operators under the policy. The letter was drafted by [Complainant] underwriting and sent to Mia as per her request.

We note that [third party insurer] received one (1) letter from [Agency], **not three (3) letters as [Complainant] had originally prepared.**

When reviewing the letter provided to [third party Insurer] by [Agency] **we note the following discrepancies:**

1. the format of the letter is different than that of a normal [Complainant Insurer] Claims Experience letter that is drafted by the Underwriting department.
2. **[S.H.] [redacted] signed the original Claims Experience letters x three (3). The altered Claims Experience letter that was provided by [Agency] was signed by Commercial Auto Department.** This did not include a contact person or contact information which would always been included on a Claims Experience letter from [Complainant]
3. The altered document was dated October 24 2018 which is one month after the original letter was issued by [Complainant] and same date [sic] that the other two (2) Claims Experience letters were sent from [Complainant] Underwriting department.
4. The operators appeared to have been manipulated and altered, [L.P.] [redacted] was added as an operator on the letter. We can confirm that [L.P.] was never a driver on the policy with [Complainant]. [L.P.] drove the vehicle one (1) time prior and was in turn involved in an accident. **We received confirmation from [Complainant] Underwriting department that the broker had**

**called when the request for the Claims Experience Letter was put through, and asked if they could add [L.P.] to the Claims Experience Letter. [Complainant] Underwriting department had responded stating no, as he was never a listed driver under the policy.** After the conversation between [Complainant] and [Agency] it appears that [L.P.] was added to the Claims Experience Letter that was provided to [third party Insurer]. We can confirm that this change was not made or authorized by [Complainant].

We also note that [J.W.] was also added to the Claims Experience letter. [J.W.] was never listed as an operator on the [Complainant]. policy. We are unsure who [J.W.] is, and confirm that [J.W.] was not added to the claims experience letter by [Complainant]. We can confirm that this change was not made or authorized by [Complainant]

We had attempted to reach Mia Kukic to discuss our concerns in relation to the Claims Experience Letter [third party Insurer] has received from their office. We had received one (1) call back from Mia Kukic and she had left a message. After many attempts to reach her again to discuss we did not receive any response. We had left voicemails on her direct line, with her receptionist as well as emails sent, all but one were not responded to.

We spoke with our broker development department and received confirmation that [Agency] was no longer a broker writing policies for [Agency]. and received confirmation that [Agency] was cancelled due to performance and behavior issues. We were informed that Mia Kukic is the owner of the brokerage and can confirm that her license is current with the Alberta Insurance Council at this time.

[Emphasis added]

The AIC requested copied of the allegedly altered Claims Experience Letters. On June 15, 2020 the Complainant Insurer responded with copies of the three (3) allegedly altered documents. The AIC subsequently contacted the third-party Insurer on June 16, 2020 to compare documents provided by the Complainant against the records of the third-party insurer.

The first document, Quote 221\*\*\*03, was prefaced with an email from the Agent which stated: *“Please review and approve ASAP.”* The copies of the third-party Claims Experience Letters appeared to contain different information than that of the source copies from the Complainant Insurer. The letters were, at some point, altered.

On June 26, 2020 the AIC sent a request to the Agent asking that the Agent respond to the allegations against her by no later than July 13, 2020. The Agent requested that the deadline be extended to August 25, 2020. That request was granted. The request for information asked;

[...] I write you to request the following information:

1. An explanation as to why the claims experience letter you sent to [third [party insurer] for [Company "B"] does not appear to be the same as any of the three letters that were originally prepared, at your request, by [Complainant insurer] and provided to [Agent's Agency]
2. An explanation as to why you sent a claims experience letter to [third party insurer] from [Complainant insurer] for [B.S.] despite this individual not being an insured through [Complainant insurer].
3. An explanation as to why the information disclosed in [B.S.'s] claims experience letter reflects an unrelated [Complainant insurer] policy holder.
4. Any additional information and documentation which may assist in understanding the material facts in relation to these allegations.

On August 25, 2020 the Agent responded to the request as follows;

First of all I have to say that personally I have not altered or changed any information on any claims experience letter. I can tell you what I recall about both of these CEL (claims experience letters)

1.Regarding [Company 'B'] claims experience letter I do recall receiving many (at least 5 different) claim experience letters. Few letter [sic] were for individual drivers and few for the company. [third party insurer] was asking for specific information to be included in claims experience letter) like class description, radius of operation, class, years of experience, province exposure etc. and for that reason I requested different letters.

I do not recall which letter was sent to [third party insurer] or anything about "changed" information.

2-3 Claims experience letter for [B.S.] was received by fax. I was not aware that [B.S.] was not insured with [Complainant insurer] or that claims experience letter reflected an unrelated [Complainant insurer] policy. The letter were received did look like [Complainant Insurer] CEL (one of their versions). The issue with [B.S] CEL was brought to my attention 9 months after the policy was issued. The same policy was changed to personal use policy two weeks after it was issued. June 2019 policy was cancelled and when advised client stated he can not afford to pay for the policy but that he needs his car (as he has a newborn baby) and that he will continue driving without insurance. I did advise him that is illegal and that he can be fined, after which he left my office without any comments. Unfortunately I was not able to retrieve the fax info as it was much later after it was received.

4. 2017-2019 I worked very often remotely (from Europe). I lost both of my parents within 1 year. [...] I was left to take care of my elderly father that was struggling with dementia. For that reason I was traveling to Europe often and stayed 3-5 weeks at the time. During that time I relied on my employees to scan and e mail me information needed to finish my work remotely. Also within the same period of time I hired and fired 2 employees within 6-8 months (reason for dismissal in both cases was unprofessional conduct [...]). I am not accusing anybody as I am not sure/better to say I do not have any proof, that they are responsible for this mess. (That year and half was a nightmare)

I think I need to tell you also a bit about my background in order to understand the situation. 12 years ago I decided to risk all my assets and take over 1 mil dollars loan to purchase [Agency], where I was already working 6 years prior. Being a single parent with 2 kids and the only provider it was never an option for me not to succeed in my plan. Changing 1 or 2 letters in order to make few hundred dollars per year is unprofessional (definitely not my style) nor something worth doing and risking my and my kids livelihood and something I would never even think to do.

I have been in this industry for 20 years with no issues and reputation of a very hard working, honest and dedicate person. I am also Royal conservatory of music teacher with 25 years experience.

Currently I am working as independent consultant (very minor role) for [redacted agency] with 18 months contract that expires April next year.

To which the AIC responded on September 18, 2020;

Thank you for your email. After reviewing your response in detail, I have a few follow-up questions:

1. [Complainant Insurer] alleges, and you appear to confirm, that the CELs for [Company 'B']. Were created at your request and [third party insurer] has provided correspondence showing that you personally emailed the CEL for [Company 'B'] to [third party insurer]. Accordingly, why does the CEL you provided to [third party insurer] for [Company 'B'] not match the CEL [Complainant insurer] created at your request?
2. You stated that the CEL for [B.S.] was received by fax – who sent this fax and who requested the CEL for [B.S.] to be sent to [the Agency]? If [Complainant insurer] sent the fax, why are they now alleging that [B.S.] is not, and has never been, insured with [Complainant insurer]? If the fax was received from some other party, why was the authenticity of the form not verified before it was sent?

Please provide me with your response to the above questions on or before October 5, 2020.

The Agent responded on November 3, 2020 as follows;

I was away until October 15 2020 and it took me some time to go through my e mails and respond to you.

1. Yes I did request CELs from [Complainant insurer]. As I mentioned before in one of my e mails. During that time I traveled to Europe frequently to take care of my elderly father. Usually when I was away my employees would check my emails, print documents that need to be printed, scan to my folder so I can assemble that information and e mail it. I do not recall which version was sent to [third party insurer] and do not recall who was helping me at that time. Why CEL was different from any [Complainant insurer] sent I do not know? I did not alter any CEL ever. All this happened more that 2 years ago. At this time I do not have access to any e mails or information regarding this file. ([Agency's] server was dismantled and I can not access previous e mails or files.)

2. The CEL for [B.S.] was received by fax from some other party not [Complainant insurer]. If a recall correctly we were told at our office that [B.S.]s manager will fax his CEL, as we were not able to confirm his commercial history on A+. Who exactly faxed it I do not know. There was never any requirement from any insurance company, to the best of my knowledge , to verify authenticity of CELs we receive. Insurance companies were accepting faxed, e mailed CEL s from different countries without any verification.

Again unfortunately I cannot give you clear answer as I do not have any way of confirming this. [Agency] fax and server are not accessible anymore. I am very surprised that the underwriter approved and bound the policy despite thinking the form is not authentic. Why was this brought up 9 months later and 2 years later, when I have no way to retrieve any information and proof? I can just giving you some information that I can recall. Dealing with hundreds of customers a month if not more I cannot recall every detail of every conversation or e mail. I do recall that both myself and one of my employees had very hard time dealing

with [B.S.] at one point as he was giving us contradictory information and was very indecisive about his policy (but that was after policy was changed to personal use policy)

The Agent was mailed a final copy of the Report containing the investigative findings of the AIC. The Agent was given an opportunity to respond. The Agent repeatedly asked for extensions to the deadline to respond which, in the interest of fairness, was granted by the AIC. Ultimately, the Agent did not respond to the entirety of the Report despite the extended deadlines.

### **Discussion**

In order for the Council to conclude that an agent has committed an offence pursuant to s.480(1)(a) of the Act, the Report must prove, on the basis of clear and cogent evidence, that it is more likely than not that the Agent committed the act as alleged. The Council is cognizant that findings of guilt under s. 480(1)(a) can dramatically impact an insurance agent's ability to remain in the industry. Therefore, the Council carefully weighs all evidence before it in this matter, and all matters, before reaching its' Decision.

The Council had serious concerns with the discrepancies presented by the Agent against the evidence presented by the Complainant and Third Party Insurers. The Agent is the former Designated Representative ("DR") of the Agency and, at the time of the errors and alterations, acted as the DR over the Agency.

DRs have elevated responsibilities under the Act and its' Regulations. Namely;

#### Notices

492(1) Subject to subsection (2), any notice or document that is required under this Act or the regulations to be given to or served on a business that is required to hold a certificate of authority may be given to or served on the business's designated representative.

and under the *Insurance Agents and Adjusters Regulation*, AR 122/01;

10(3) The designated representative of a business that holds a general insurance agent's certificate of authority must (a) hold a level 3 general insurance agent's certificate of authority, or (b) have established eligibility for a level 3 general insurance agent's certificate of authority within the previous 12 months before being designated as a designated representative.

(4) **A designated representative** of a business that holds a general insurance agent's certificate of authority **must establish appropriate standards relating to the supervision of persons who hold a probationary or level 1 general insurance agent's certificate of authority.**

(5) In determining standards relating to the supervision of certificate holders referred to in subsection (4), the designated representative **must take into account the levels of qualification, education and**

**experience of the certificate holder, the nature of the insurance business being conducted, the requirements of the Insurance Act and any applicable regulations under the Act.**

### **9 Qualifications for general insurance agents**

(2) The holder of a level 1 general insurance agent's certificate of authority must be supervised by an individual who holds a level 2 general insurance agent's certificate of authority or who is a designated representative referred to in section 10, in accordance with standards established by the designated representative under section 10(4)

[...]

(4) An individual is not eligible to apply for a level 3 general insurance agent's certificate of authority unless, (a) within the previous 36 months, the individual has held a level 2 general insurance agent's certificate of authority for a period of at least 24 months and has, within the previous 12 months, passed the level 3 general insurance examination approved by the Minister, **and (b) the individual has responsibility for the management and supervision of the business that holds a general insurance agent's certificate of authority.**

Insurance agents work in a profession which necessitates the accurate completion of forms and insurance documents. Clients can experience severe difficulties when forms are incorrectly completed. Insurers also rely on the honesty of insurance intermediaries, like brokerages, agents and Agencies, to complete information accurately. If there was no responsibility of the insurance intermediary to ensure accuracy of forms, then the Insurer would presumably be assuming risk on which it had no basis of information. Therefore, it is not unreasonable to expect a high standard of due diligence be practiced by insurance agents when soliciting and finalizing insurance documents. The relationship between the agent and the client, and the agent and insurer, result in a fiduciary duty. That which requires the insurance intermediary, like this Agent, to act in the best interests of the client. Clients are never well-served when information is falsely altered on their behalf, as the client could later be accused of falsifying information, and, more importantly, the coverage may be cancelled entirely leaving the client uninsured. This appears to have happened in the case of B.S. above.

The Council was concerned with the readiness the Agent showed to neglect responsibility for a certificate that she is statutorily entitled to hold. The certificate also carries with it the duties described above. The Agent has stated "I was not aware that [B.S.] was not insured with [Complainant insurer]" and "Usually when I was away my employees would check my emails, print documents that need to be printed, scan to my folder so I can assemble that information and e mail it" and "There was never any requirement from any insurance company, to the best of my knowledge , to verify authenticity of CELs we receive." and "I am very surprised that the underwriter approved and bound the policy despite thinking the form is not authentic." Moreover, despite the fact that the emails came from the account of the Agent, the Agent did

not know (1) who sent the fax (2) who was working for her at the time (3) who scanned the documents (4) what the documents said (5) why the documents were inconsistent; and the Agent has also stated that all records relating to any communications have since been dismantled.

The Council does not wish to penalize any person for the challenges that can sometimes occur in one's life. However, as an insurance agent, and especially as a DR, it is the Agent's responsibility to be aware of the accuracy of forms she submits on behalf of her clients to insurers. If the Agent was not able to uphold the responsibilities granted by her certificates of authority she should have made arrangements to assign an alternative DR to the Agency and also to step away from her duties until such time as the proper care could be given. The Agent perceivably "assigned" the review and oversight of these files to her staff members. Moreover, a DR is statutorily responsible for the continued competency of her staff, yet the Agent continues to deflect responsibility of the alterations to those staff members. The Council cannot and will not accept that the responsibility lies anywhere than with the Agent herself.

In light of all the evidence, the Council is satisfied that there is sufficient, clear and cogent evidence that the requisite elements of an offence under s.480(1)(a) have been met, and that the Agent's conduct was intentional, negligent, dishonest, deceitful, misleading, and untrustworthy as contemplated by s.480(1)(a) of the Act.

The Council agrees that a substantial civil penalty is warranted under the circumstances. Given the seriousness of the offence the Council orders that a civil penalty in the amount of \$5,000.00 be levied against the Agent pursuant to s. 480(1)(b) and 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001. The Council also has the jurisdiction to suspend the Agent's certificate of authority for the period of up to 12 months, or alternatively the Council may revoke the certificate of authority for the period of up to one year. Given the conduct of the Agent, the Council orders that the Agent's certificates of authority be revoked for the period of one year.

The civil penalty 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. 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: May 4, 2021

[ORIGINAL SIGNED BY]

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Janice Sabourin,  
General 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