

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 Leeland Financial Group Ltd.  
(the "Agency")

And

As represented by  
Richard Lee,  
("Designated Representative")

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

This case involved an alleged violation of s. 481(2) of the Act. Specifically, that the Agency 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 Agency, through the Designated Representative ("DR"), violated a provision of the Act as contemplated by s. 481(2), 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 November 18, 2021 (the "Report"). The Report was forwarded to the Agency for review, and to allow the Agency to provide the Council with any further evidence or submissions by way of Addendum.

This matter arose due to the Agency's failure to respond to a Demand made in the course of an investigation into a complaint made against the Agency.

The Agency has held a Life certificate of authority, on and off, from February 1, 1996 to the present day. The Agency has held an Accident & Sickness certificate of authority, on and off, from February 17, 1989 to the present day.

On September 14, 2021, the AIC investigator emailed the Agency, through the DR, a request for information with a response deadline on or before September 29, 2021.

On September 29, 2021, the AIC investigator called the DR to follow up on the request for information sent on September 14, 2021. During the call, the AIC investigator sent the request for information once more, and the DR confirmed the receipt of both the September 14, 2021 and the September 29, 2021 emails sent by the AIC investigator.

On September 30, 2021, the AIC investigator sent a formal demand for information (“Demand”) to the Agency, through the DR, by email, with a deadline of October 14, 2021. The AIC investigator received a notification that the email was not delivered as there was “*No route to host (Host unreachable)*”. The AIC investigator sent the Demand by email again and received another notification that the email was not delivered.

On October 1, 2021, the AIC attempted to send the Demand by email and received a notification that the email was not delivered. On the same date, the AIC investigator sent the Demand to the Agency by priority mail, with a deadline of October 19, 2021. On October 4, 2021, the Demand was delivered by mail, to the address provided for the Agency.

On October 6, 2021, the DR left a voicemail for the AIC investigator. The AIC investigator returned the call of the DR, however the call was not answered, and the AIC investigator left a voicemail. The AIC investigator sent a follow up email to the DR and received a notification that the email was not delivered.

On November 18, 2021, the Report was mailed to the Agency, to the attention of the DR. The Report was delivered on November 19, 2021, to the address provided to the Agency. By the date the Report was provided to the Agency, the AIC still had not received a response to the Demand from the Agency.

After receiving the Report, which detailed the above, the DR, on behalf the Agency, provided a response to the Demand, by email dated December 3, 2021. The DR, on behalf of the Agency, did respond, but it was outside of the period set forth in the Demand.

### **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 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 “... *A person served with a direction ... who has the information **must** provide the information in accordance with the direction*” (emphasis added).

The Demand itself is formed under s. 481(2) of the Act.

Section 481 of the Act provides, in part;

**Demand for information**

481(1) The 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 section 480(1).**

**(2) A person served with a direction under subsection (1) who has the information must provide the information in accordance with the direction.**

Section 480 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 [...]

(b) **has contravened any provision** of this Act **or the regulations** or similar legislation in another jurisdiction or legislation that is a predecessor of this Act or the regulations, [...]

Section 780 of the Act stipulates:

**Offences**

780 A person who contravenes any of the following provisions is guilty of an offence:  
[...] (c) in Part 3, sections [...] 481(2)

In this regard, the act of failing to provide a response to the Demand is a potential violation of s. 481(2) of the Act.

Regulatory offences such as these are strict liability offences. As such, the AIC has the onus to prove that the Demand was properly made upon the Agency, proper in the sense that they meet all the requirements under the Act, and that the Agency did not comply. Once this occurs, the responsibility then shifts to the Agency to establish that due diligence was exercised in meeting the statutory requirement to respond. To substantiate this due diligence defence, the Agency must prove that all reasonable means were taken to avoid making the offence. There is nothing that requires the AIC to prove that the Agency’s failure to respond was intentional.

In consideration of the evidence before it, and the appropriateness of the request to provide a response to the allegations against the Agency, the Council is satisfied that the Demand met the requirements of s. 481 of the Act. The Council agreed that the Agency was provided a reasonable opportunity to respond to the Demand. Despite the reasons provided by the DR, the Agency failed to respond when called upon, therefore the Agency has not met the burden of proof to establish a due diligence defence. As such, the Council finds the Agency guilty of violating s. 481(2) of the Act as alleged, and also finds that the Agency has subsequently violated s. 480(1)(b) of the Act.

In terms of the applicable sanction, the Act requires that all holders, and former holders, of certificates of authority produce information when called upon. The Council is of the view that the public is not well-served when insurance intermediaries 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 Agency did not respond to the Demand by the deadline provided, however subsequently responded to the Demand after receiving the Report. In consideration of all of the evidence, the Council orders that a penalty in the amount of \$500.00 be levied against the Agency.

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. Pursuant to s. 482 of the Act (excerpt enclosed), the Agency 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: January 25, 2022

[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.

**Contact Information and Useful Links for Appeal:**

Email: [tbf.insurance@gov.ab.ca](mailto:tbf.insurance@gov.ab.ca)

Phone: 780-643-2237

Fax: 780-420-0752

Toll-free in Alberta: Dial 310-0000, then the number

Mailing Address: 402 Terrace Building, 9515 – 107 Street Edmonton, AB T5K 2C3

Link: [Bulletins, notices, enforcement activities | Alberta.ca](#) – *Interpretation Bulletin 02-2021 – Submitting Notices of Appeal of Insurance Council Decisions*