

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 Jonathan Macala
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC conducted an investigation into the Agent based on the Agent's self-reported admission that he engaged in, and was compensated for, unlicensed activity;

AND WHEREAS the investigation established that the Agent sold five critical illness rider products (the "Products") as an add on to life insurance products between September 2019, and June 2021 (the "Unlicensed Period"), without the valid and subsisting certificate of authority required to do so;

AND WHEREAS the Agent was compensated for acting as an Accident & Sickness insurance agent by Greatway Financial Inc. (the "Agency");

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 The Agent is the holder of a certificate of authority (M-3075695-10929151) to transact business as a life insurance agent and has been continuously licensed since August 15, 2019;
 - 1.2 On November 15, 2021, the Agency sent an email to the licensing department of AIC advising that the Agent had informed the Agency that he had inadvertently engaged in unlicensed activity by selling the Products without having had an Accident & Sickness certificate of authority during the Unlicensed Period;
 - 1.3 On November 17, 2021, the investigator wrote to the Agent and Agency requesting information regarding the Products and the Unlicensed Period, including an explanation as to why and how the Products were sold, a comprehensive list of all Accident & Sickness insurance products sold during the Unlicensed Period, and the amount of compensation received for each of the Products;
 - 1.4 On November 18, 2021, the investigator received a combined response from the Agent and Agency via a letter, which provided information regarding the Products and the compensation received for selling the Products, as well as an explanation as to why the Products had been sold during the Unlicensed Period;

“Jonathan has been a full Life and A&S licensed advisor in Ontario since 2009. He had never applied for a non-resident license in any other province until 2019. In Ontario, advisors have the option of writing and applying for their Life and A&S on one application, whereas in AB the license applications for Life and A&S are separate applications. When Jonathan applied for his non-resident AB license he didn't realize that he needed to complete two separate applications; one for each of Life and A&S. It was purely an unintended error.

[...]

When Jonathan was updating his license information with another of our providers, Greatway's contracting Assistant advised that he needed to apply for his AB A&S license as the AB Life and A&S licenses were separate applications (please see copy of email direction from the contracting assistant to Jonathan, below fyi). This was the first that Jonathan knew of this requirement:”

- 1.5 On November 22, 2021, the investigator wrote to ivari to confirm the number of Accident & Sickness insurance products sold during the Unlicensed Period and the amounts received in premiums/paid in commissions;
 - 1.6 On December 3, 2021, ivari responded to the investigator via a letter confirming the Products sold during the Unlicensed Period and the compensation received for each policy sold;
 - 1.7 On December 6, 2021, the investigator sent a letter to the Agent and Agency to confirm the information received from ivari.
 - 1.8 On December 11, 2021, the Agent and Agency responded to the investigator via a letter confirming the information regarding the Products and the compensation received for the sale of the Products;
 - 1.9 During the Unlicensed Period the Agent sold a total of five critical illness riders and received a total of \$1,981.85 in compensation for the sale of the Products;
 - 1.10 This is the first occurrence of unlicensed activity for the Agent;
 - 1.11 The Agent advised the investigator that he acknowledges his mistake and the seriousness of this matter. The Agent is aware that any similar future occurrences may result in a potential fine amount as high as \$1,000.00 per policy sold while unlicensed.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 452(1) of the Act, and consequently violated section 480(1)(b) of the Act for having engaged in unlicensed activity.
 - 3.0 The Agent and the investigator jointly recommend to the Life 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 \$750.00, 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 set out herein.
- 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 10th day of January 2022.

ALBERTA INSURANCE COUNCIL
PER:

[Original Signed By]
Steve Rehak, Investigator

Dated at the City of Toronto, in the Province of Ontario this 10 day of January 2022.

[Original Signed By]
Jonathan Macala, Agent

In the presence of:

[Original Signed By]
Signature of Witness

_____ [S.H.]
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 Jonathan Macala
(the "Agent")

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

WHEREAS the AIC conducted an investigation into the Agent based on the Agent's self-reported admission that he engaged in, and was compensated for, unlicensed activity;

AND WHEREAS the investigator of the AIC made a request for information in relation to the investigation being conducted by the AIC into the Agent for unlicensed activity;

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 SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) 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 SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00), 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 Council. The motion was duly recorded in the minutes of that meeting.

Date: March 9, 2022

[Original Signed By]
Chair Life Insurance Council