

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 Juan Saavedra  
(the "Agent")

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

This case involves an allegation pursuant to s. 480(1)(a) or, in the alternative, s. 509(1)(c) of the Act. Specifically, it is alleged that the Agent redeemed client funds into his own personal bank account, without the clients' knowledge or consent. As such, it is alleged that the Agent acted contrary to s. 480(1)(a) and is guilty of fraud, deceit, dishonesty, untrustworthiness, and/or misrepresentation. In the alternative, it is alleged that the Agent engaged in an unfair, coercive or deceptive act or practice in contravention of s. 509(1)(c) of the Act and has subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated March 22, 2022 (the "Report"). The Report was forwarded to the Agent for review and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. The Agent did not respond.

The Agent held a Life insurance certificate of authority, periodically, between the period of November 12, 2008 and November 17, 2021, when the Agent was terminated.

On November 17, 2021, the AIC received a termination notice from [P.F.S.L.] [redacted] (hereinafter referred to as the "Former Agency"). The termination notice stated the following:

[...]  
Regarding : [sic] Termination of **JUAN CARLOS SAAVEDRA**  
[...]

[Former Agency] is hereby withdrawing sponsorship of the above-named agent's licence [sic] for the following reason :  
[sic]

[Former Agency] received information indicating that Representative Juan Carlos Saavedra engaged in fraudulent activity and that he misappropriated funds by altering clients banking information to reflect that of his own.

Given the seriousness of the activity in question, his contracts with the [Former Agency] have been terminated.

**AS OF NOVEMBER 1, 2021.**

[...]

[Emphasis added in original document]

On November 18, 2021, the AIC requested the following information from the Former Agency:

[...]

Further to the termination letter you submitted to the Alberta Insurance Council, could you kindly provide us with copies of all the documents and evidence considered to support the allegations identified in your letter.

[...]

On December 2, 2021, the Former Agency provided the following documents:

1. A letter dated December 3, 2021 (the “December Response Letter”); and
2. The Analysis and Investigation Report prepared by the Former Agency, dated December 3, 2021 (the “A&I Report”).

The Response Letter stated, in part:

**Re: Request for Information – Termination Letter of Juan Carlos Saavedra**

[...]

The following is in response to your email dated November 18, 2021, regarding the above noted matter.

[...]

For ease of reference, we have reproduced your requests from you letter in bold italics.

1. ***Further to the termination letter you submitted to the Alberta Insurance Council, could you kindly provide us with copies of all the documents and evidence considered to support the allegations identified in your letter.***

Please refer to Appendix ‘A’.

[...]

[Emphasis added in original document]

The A&I Report stated, in part:

[...]

CSF Client Service Representative (“CSR”) received a call from the [spouse] [redacted] (non-[Former Agency] client) of [M.I.] [redacted] stating that all redemptions that happened in [client] [redacted] CSF RRSP account \*\*\*\*5325 [redacted] were not initiated by [client] [redacted]. In addition, the [Bank] [redacted] bank account number ending in 5325 to which money was sent to it is not [client] [redacted] bank account. It is our understanding that [M.I.] [redacted] was also present during the call. The matter was reported immediately to the [Former Agency] Privacy Office on October 20, 2021.

### **Chronology**

October 20, 2021 – CSR notifies our Privacy Office of alleged fraud after an impacted client informed them of unauthorized redemptions and of incorrect bank account information associated with [client] [redacted] account. A “stop sell” was placed on the impacted account with notes to escalate to a supervisor any requests and or inquiries received for special handling.

October 21, 2021 – [Former Agency] began reviewing the client file. Banking information on the account where funds were redeemed was changed in late June/early July via a paper application. Client signatures seem to be different than those of initial application signed documents.

October 21, 2021 – [Former Agency] On-Line (“POL”) access for the agent was shut down given the concerns.

October 21, 2021 – [Former Agency] reviewed account statements and confirmation notices that were sent to the address on file of client [M.I.] [redacted]. There is no record of documents returned or undeliverable by Canada Post. [Former Agency] has no record of concerns raised by the client.

October 22, 2021 – CSF flagged “stop sell” on all of Mr. Saavedra’s former clients’ accounts to prevent any redemptions from occurring.

October 22, 2021 – [Former Agency] contacted Mr. Saavedra to advise him of the complaint/matter. He disclosed that he met with the client for the redemptions and that he had notes.

October 25, 2021 – [Former Agency] conducted a conference call interview with Mr. Saavedra. He admitted that he took money from the client’s account. In addition, he disclosed that he took funds from the CSF TFSA of another client, [C.H.] [redacted], beginning in 2019. According to Mr. Saavedra, financial, stress, and emotional pressures caused him to take the funds. Redemption documents were completed and signed by Mr. Saavedra without the client’s knowledge and consent. [Former Agency] requested Mr. Saavedra to provide a written statement, bank records, and confirmation of all impacted clients.

October 25, 2021 – CSF ran queries to identify any other accounts where banking information were updated to show Mr. Saavedra’s [S.B.] [redacted] and [Bank] [redacted] bank accounts. CSF identified 4 additional clients who were impacted by Mr. Saavedra’s actions.

October 25, 2021 – The [spouse] [redacted] of [M.I.] [redacted] called CSF. During the call [spouse] [redacted] mentioned that Mr. Saavedra is related to [spouse] [redacted]. [Spouse] [redacted] further stated that Mr. Saavedra visited [spouse] [redacted] and confessed that he took the money from [spouse] [redacted] [client’s] [redacted] account as he needed it to meet expenses.

October 26, 2021 – [Former Agency] email a Client Acknowledgement Letter to [M.I.] [redacted] and [C.H.] [redacted]. In addition, acknowledgement letters were mailed to 4 other clients (detailed below) which also included a transaction history for the clients to review.

November 1, 2021 – [Former Agency] advised Mr. Saavedra via a conference call with Senior Management that his contracts with [Former Agency] have been terminated.

November 15, 2021 – Client Survey Letters were mailed all [sic] of Mr. Saavedra’s segregated fund clients. Letters to all clients included language regarding personal financial dealings and to contact [Former Agency] within 30 days if they had any questions or concerns.

### **Client Survey Responses**

As of the date of this report, [Former Agency] has received 3 responses:

- [Former Agency] reviewed the account with the client via a telephone call and there were no questionable transactions in [client] [redacted] account. A new representative was assigned to the client [...]
- One client reported a name change request from a year ago that was not addressed by Mr. Saavedra. There were no questionable transactions in [client] [redacted] account. The new representative assigned is working with the client to resolve the name change request.

- One client, [S.H.] [redacted], requested a review of [client] [redacted] TFSA account (see below)  
[...]  
[Emphasis added in original document]

The A&I Report provided redemption information relating to the following four clients:

1. Account \*\*\*\*4288 belonging to [C.H.] [redacted] (hereinafter referred to as “Client 1”);
2. Account \*\*\*\*7979 belonging to [E.B.D.M.] [redacted] (hereinafter referred to as “Client 2”);
3. Account \*\*\*\*0744 belonging to [D.T.] [redacted] (hereinafter referred to as “Client 3”); and
4. Account \*\*\*\*3694 belonging to [B.S.] [redacted] (hereinafter referred to as “Client 4”).

As it related to Client 1, the A&I Report provided the following information relating to redemptions for the account ending in 4288:

[...]  
**[Client 1]**

[Former Agency] received a written letter dated November 5, 2021 from [Client 1] in response to our letter to [Client 1] regarding [Client 1] CSF TFSA account. In 2020, [Client 1] had reviewed [Client 1] account and was concerned with the market value. Mr. Saavedra told [Client 1] that the markets were down but since he had recommended the funds [Client 1] invested in, then he would help by repaying [Client 1] \$5,000/mth. Mr. Saavedra has reimbursed [Client 1] approximately \$40,000 since March 2021.

Our review: On February 10, 2020, Mr. Saavedra set up \$200/mth PAC for [Client 1] CSF TFSA without [Client 1] authorization or consent. The banking information to setup the PAC was Mr. Saavedra’s [S.B.] [redacted] ending in 4128 (hereinafter referred to as “SB-4128”) and ran 11 times which stopped when the remaining funds were transferred out.

During a period from February through September 2020, Mr. Saavedra took approximately \$86,320 out of the client’s account as indicated below.

Date	Gross/\$	Net/\$	Bank Acc
10-Feb-20	\$4,900.00	\$4,900.00	[SB-4128]
17-Mar-20	\$4,764.92	\$4,750.00	[SB-4128]
24-Mar-20	\$4,959.12	\$4,900.00	[SB-4128]
13-Apr-20	\$5,005.37	\$4,950.00	[SB-4128]
22-Apr-20	\$4,954.12	\$4,900.00	[SB-4128]
30-Apr-20	\$4,902.60	\$4,850.00	[SB-4128]
11-May-20	\$4,801.25	\$4,750.00	[SB-4128]
27-May-20	\$4,905.70	\$4,850.00	[SB-4128]
10-Jun-20	\$4,792.91	\$4,750.00	[SB-4128]
23-Jun-20	\$4,874.75	\$4,800.00	[SB-4128]
3-Jul-20	\$4,863.46	\$4,750.00	[SB-4128]
15-Jul-20	\$5,015.53	\$4,850.00	[SB-4128]
28-Jul-20	\$4,938.51	\$4,750.00	[SB-4128]
4-Aug-20	\$4,989.31	\$4,800.00	[SB-4128]
17-Aug-20	\$4,988.96	\$4,750.00	[SB-4128]
25-Aug-20	\$4,725.80	\$4,500.00	[SB-4128]
1-Sep-20	\$5,024.01	\$4,750.00	[SB-4128]
11-Sep-20	\$2,914.52	\$2,750.00	[SB-4128]
Total:	\$86,320.84	\$84,300.00	

Of note, Transaction Confirmations were mailed to the client by CSF. [Former Agency] has no record of the client contacting us regarding redemptions at or around the time of the transactions.

[...]

[Emphasis added in original document]

As it related to Client 2, the A&I Report provided the following information relating to redemptions for the account ending in 7979:

**[Client 2]**

As of the date of this report, [Former Agency] has yet to receive a response to our survey letter from [Client 2]. We have no record on file to indicate that any concerns or complaints were raised by the client towards Mr. Saavedra or [Client 2] accounts.

On January 28, 2020, Mr. Saavedra set up a \$50/mth PAC using his personal bank account information without the client's authorization or consent which ran 4 times. Mr. Saavedra contacted CSF on June 26, 2020 to stop the PAC from running. The following redemptions occurred with the funds going to Mr. Saavedra's personal bank account:

Date	Gross/\$	Net/\$	Bank Acc
28-Jan-20	5,694.60	5,500.00	[SB-4128]
Total:	5,694.60	5,500.00	

Of note, Transaction Confirmations were mailed to the client by CSF. [Former Agency] has no record of the client contacting us regarding the redemption at or around the time of the transaction.

[...]

[Emphasis added in original document]

As it related to Client 3, the A&I Report provided the following information relating to redemptions for the account ending in 0744:

**[Client 3]**

We have yet to receive a response to our survey letter to the client, nor do our records on file indicate any concerns or complaints raised by the client towards Mr. Saavedra on [Client 3] accounts.

On January 6, 2020, Mr. Saavedra set up a \$100/mth PAC using his personal bank account information without the client's authorization. Mr. Saavedra contacted CSF on January 27, 2020 to stop the PAC from commencing. The following redemptions occurred with the funds going to Mr. Saavedra's personal bank account:

Date	Gross/\$	Net/\$	Bank Acc
6-Jan-20	\$3,137.42	\$3,000.00	[SB-4128]
[...]	[...]	[...]	[...]
[...]	[...]	[...]	

Of note, Transaction Confirmations were mailed the [sic] client by the fund company. [Former Agency] has no record of the client contacting us regarding redemptions at or around the time of the transactions. It is our understanding that the fund company, CSF, was not contacted by the client either.

[...]

[Emphasis added in original document]

As it related to Client 4, the A&I Report provided the following information relating to redemptions for the account ending in 3694:

We have yet to receive a response to our letter to the client, nor do our records on file indicate any concerns or complaints raised by the client towards Mr. Saavedra or his accounts. Of note, the client is the [sibling] [redacted] of Mr. Juan Carlos Saavedra.

On July 24, 2019, Mr. Carlos Saavedra set up a \$150/mth PAC using his personal bank account information without the client's authorization for the client's RRSP account. The account was redeemed prior to the PAC running. The following redemptions occurred with the funds going to Mr. Saavedra's personal bank account:

Date	Gross/\$	Net/\$	Bank Acc
25-Jul-19	\$4,149.13	\$3,600.00	[SB-4128]
1-Aug-19	\$2,116.94	\$1,803.67	[SB-4128]
Total:	\$6,266.07	\$5,403.67	

[...]

Of note, Transaction Confirmations were mailed the [sic] client by the fund company. [Former Agency] has no record of the client contacting us regarding redemptions at or around the time of the transactions. It is our understanding that the fund company, CSF, was not contacted by the client either.

[...]

[Emphasis added in original document]

The A&I Report included a "Summary of Interview with Juan Carlos Saavedra" conducted by the Former Agency's Compliance Department, on October 25, 2021 at 10:03 a.m. EST (hereinafter referred to as the "October Interview").

The October Interview provided in part:

[...]

- Asked about client [Client 1]
  - o Carlos said he was taking money from [Client 1] account
  - o The client contacted him about 7-8 months ago and asked why the account value was down
  - o told [Client 1] it was due to the markets but he would help paid [sic] it back since he made the fund recommendation
  - o Started paying [Client 1] back \$5,000/mth into a TFSA account
  - o He later told [Client 1] that he would repay 80-90% of the funds about (\$70,000)
  - o [Client 1] only called once
  - o Carlos did the all the [sic] subsequents [sic] and new account on his own
  - o Client did not sign the documents
  - o Owes about \$45,000
- [...]
- Started taking money from [Client 1] about a year and half [sic] ago
- Needed the money for personal/family expenses and rent
- Did the withdrawals from the client accounts without asking
- Both the bank accounts that funds went to were his own personal bank accounts
- [...]
- Carlos said he told [sic] the money from them because he had known them over ten years and they trusted him
- [...]
- We advised him that we would need copies of his bank statements and a written statement
- Advised that the matter would be reported to the MFDA
- Advised him that we will need to contact his clients and asked him not to contact his clients at this time. His clients that required assistance would be helped by different agent [...]
- Carlos said he was under financial and emotional pressure
- [...]
- Discussed that termination will be likely but still required his co-operation
  - o He said that he is willing to co-operate
- asked him to include a list of clients he took money from

- said he only took money from the 3 clients

On January 5, 2022, the AIC investigator sent a request for information to the Agent (the “Request”). The Request stated, in part:

[...]

The AIC has received notification of your November 1, 2021 termination from [Former Agency]. In the notification, [Former Agency] alleges that you misappropriated funds, falsified withdrawal forms, and altered client banking information to reflect your own. To assist in my investigation, I am writing to request you provide the following information and/or documents for consideration [...]

1. A detailed account and explanation of your version of events related to this matter, including date(s) where appropriate.
2. Copies of any documentation or correspondence you have relating to this matter.
3. Any other information or evidence you feel may assist in my understanding of the material facts.

[...]

On January 20, 2022, the AIC investigator sent a demand for information (the “Demand”) to the Agent. The Demand stated, in part:

[...]

I recently contacted you to request certain information required as a part of a Compliance Investigation. As I have yet to receive your response to that request dated January 5, 2022, I am now requesting the information below as a formal demand:

1. [Former Agency] alleges that you misappropriated client funds, by falsifying withdrawal forms, and altering client banking information to divert unauthorized withdrawals into your own bank account. Provide a detailed account and explanation of your version of events related to this matter.
2. Provide copies of any documentation or correspondence you have relating to this matter.
3. Provide any other information or evidence you feel may assist in my understanding of the material facts.

[...]

On March 8, 2022 the AIC investigator requested the following information from the Former Agency:

[...] If you have the following information or documents, please provide:

1. Can you provide banking documents, employment documents, or Mr. Saavedra’s own account documents which show the bank accounts [...] [SB-4128] belong to Mr. Saavedra? So far what I have shows only a partial bank account number for the [SB-4128] [...]
2. [...]
3. [...]
4. A list of all affected clients’ (discovered to date) including policy numbers, and amounts taken from their accounts.
5. Copies of any client responses received from [Client 2], [Client 3], [Client 4] [...]

On March 10, 2022, the Former Agency provided a response, by way of a letter, dated March 9, 2022 (the “March Response”), which stated, in part:

[...]

The following is in response to your email dated March 8, 2022, regarding the above noted matter.

[...]

For ease of reference, we have reproduced your requests from your letter in bold italics.

1. ***Can you provide banking documents, employment documents, or Mr. Saavedra's own account documents which show the bank accounts [...] [SB-4128] belong to Mr. Saavedra? So far what I have shows only a partial bank account number for the [SB-4128] [...]***

[...]

Please refer to Appendix 'A' for documents referencing Mr. Saavedra's [SB-4128] account.

2. [...]

3. [...]

4. ***A list of all affected clients' (discovered to date) including policy numbers, and amounts taken from their accounts.***

Client Name	Segregated Fund Account	Net Amount Taken
[Client 4]	#####3694 (RRSP)	\$ 5,403.67
[...]	[...]	[...]
[...]	[...]	[...]
[Client 2]	#####7979 (TFSA)	\$ 5,500.00
[Client 3]	#####0744 (TFSA)	\$ 3,000.00
[...]	[...]	[...]
[Client 1]	#####4288 (TFSA)	\$ 84,300.00

5. ***Copies of any client responses received from [Client 2], [Client 3], [Client 4] [...]***

Please be advised that we have no record on file of receiving responses from [Client 3], [Client 4], [...]. We have no record of correspondence being marked "return to sender" or "undeliverable" by Canada Post. We are continuing our efforts to contact those clients.

Please refer to Appendix 'D' for a response from [L.M.] [redacted] on behalf of [Client 2].

[...]

[Emphasis added in original document]

Appendix 'A' of the March Response provided a "Payroll Direct Deposit Instructions" form provided by the Agent to the Former Agency, indicating his bank account as being [SB-4128]. In addition, Appendix 'A' included a redacted "Day-to-Day Banking" print out from the Agent for the [SB-4128] bank account, for the period of January 1, 2021 to January 21, 2021.

The Agent did not respond to the Request dated January 5, 2022, the Demand dated January 20, 2022 or the Report dated March 22, 2022.

## **Discussion**

In order for the Council to conclude that the Agent has committed an offence pursuant to s. 480(1)(a) of the Act, the report must provide on the basis of clear and cogent evidence, that it is more likely than not that the Agent committed the Act as alleged. The requirement of clear and cogent evidence reflects that the Council's findings can



dramatically impact an insurance agent's ability to remain in the industry. Therefore, the Council carefully weighs all evidence before it prior to reaching its decision.

The applicable legal test to determine the Agent's guilt in violating s. 480(1)(a) of the Act is set out in the Court of Queen's Bench of Alberta Decision, *Roy v. Alberta (Insurance Councils Appeal Board)*, 2008 ABQB 572 (hereinafter referred to as "Roy"). In *Roy*, the Life Insurance Council found that an agent violated s. 480(1)(a) of the Act by attesting to completing the required continuing education hours when he did not, in fact, complete the required continuing education hours. The *Insurance Councils Appeal Board* also found the agent guilty on appeal. The agent advanced the decision to the Court of Queen's Bench of Alberta.

In his reasons for judgment dismissing the appeal, Mr. Justice Marceau wrote as follows 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.**

[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]

The Decision of the *Insurance Council's Appeal Board* (of Alberta) was subsequently upheld, its' findings confirmed, and the agent was found guilty of an offence pursuant to s. 480(1)(a) of the Act.

The evidence in these types of cases is based on the concept of "*clear and cogent*" evidence. In *The Matter of the Appeal of Arney Falconer*, Chairperson Hopkins dealt with this principal of clear and cogent evidence and provided as follows;

The Life Insurance Council stated in the Decision that there is a requirement "for 'clear and cogent evidence' because our findings can dramatically impact an insurance agent's ability to remain in the industry".

However, the requirement for clear and cogent evidence does not mean that the evidence is to be scrutinized any differently than it should be in any other civil case. **In all civil cases evidence must be sufficiently clear, convincing and cogent to satisfy the balance of probabilities.** In *F.H. v. McDougall* 2008 SCC (sic); [2008] 3 S.C.R. 41 the Supreme Court of Canada states:

[45] To suggest that depending upon the seriousness, the evidence in the civil case must be scrutinized with greater care implies that in less serious cases the evidence need not be scrutinized with such care. I think it is inappropriate to say that there are legally recognized different levels of scrutiny of the evidence depending upon the seriousness of the case. There is only one legal rule and that is that in all cases, evidence must be scrutinized with care by the trial judge.

[46] Similarly, evidence must always be sufficiently clear, convincing and cogent to satisfy the balance of probabilities test. But again, there is no objective standard to measure sufficiency. In serious cases, like the present, judges may be faced with evidence of events that are alleged to have occurred many years before, where there is little other evidence than that of the plaintiff and defendant. As difficult as the task may be, the judge must make a decision. If a responsible judge finds for the plaintiff, it must be accepted that the evidence was sufficiently clear, convincing and cogent to that judge that the plaintiff satisfied the balance of probabilities test.

Contraventions of s. 480(1)(a) are *mens rea* offences that require proof of intent, knowledge, or recklessness on a balance of probabilities. Section 480(1)(a) of the Act reads:

If the Minister is satisfied that the holder or a former holder of a certificate of authority 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 Report alleged that the Agent was guilty of fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act when he redeemed funds from former clients accounts for his own personal use, intentionally leaving numerous former clients without appropriate coverage.

The October Interview of the Agent was of significance to the Council's Decision. The October Interview stated that the Agent confirmed the following, with respect to the funds he redeemed from his client's investments:

- [...]
- told [Client 1] it was due to the markets but he would help paid [sic] it back since he made the fund recommendation
- [...]
- Started taking money from [Client 1] about a year and a half ago
- [...]
- Carlos said he told [sic] the money from them because **he had known them over ten years and they trusted him**
- [...]

The Agent disclosed that he was under financial pressures during the course of approximately one year in which he redeemed funds from his former client's investments, for his own personal use. While the Agent emphasizes that

he is repaying [Client 1] for funds lost “due to the markets”, this bears no weight on the determination made by the Council. The Council’s mandate is to enforce the provisions of the Act and the Council believes that the intention behind the Agent’s conduct is determinative in deciding whether an offence has been committed. Both consumers and insurers rely on agents to act with integrity, honesty, and in the best interests of their clients. The former clients trusted the Agent would not expose them to unreasonable risk due to lack of adequate coverage. The Council had no hesitation in concluding that the Agent, on this basis and on the basis of the admissions made by the Agent during the October Interview, is guilty of the allegations as set out in the Report.

In light of the Agent’s admissions during the October Interview, the evidence submitted by the Former Agency confirms that the Agent redeemed funds from the investment accounts of his former clients and deposited those funds into his own personal bank account, the objective and subjective elements of the applicable legal test under s. 480(1)(a) are met. This was intentional conduct and it is fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated pursuant to s. 480(1)(a) of the Act. As a result of this finding it was unnecessary for the Council to consider the alternative alleged offence pursuant to s. 509(1)(c) of the Act.

In terms of the available sanction, the Council may impose a civil penalty for a violation of s. 480(1)(a) of the Act not exceeding \$5,000.00, per demonstrated offence against an agent, and may choose to suspend or revoke the Agent’s certificates of authority in accordance with the *Certificate Expiry, Penalties and Fees Regulation*, AR 125/2001. As to the amount of the civil penalty, the Council is of the view that the Agent’s conduct was self-serving, as it was deliberate and without any consideration to the risk he was subjecting his former clients to, and therefore a significant civil penalty is warranted. As such, the Council orders a civil penalty, in the amount of \$5,000.00, per offence, resulting in twenty-one (21) offences, equaling a total civil penalty of one-hundred and five thousand dollars (\$105,000.00), be levied against the Agent. If the Agent had held active certificates of authority, the Council would have exercised their authority to revoke the Agent’s certificates of authority.

The civil penalty of \$105,000.00 must be paid within thirty (30) days of receiving this Decision. 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 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: June 27, 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*