

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 Ronald Balachandra
(the "Agent")

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

This case involves allegations pursuant to s. 509(1)(a) of the Act. Specifically, it is alleged that the Agent falsely declared the completion of continuing education ("CE") courses, when, in fact, the CE courses had not been completed. In so doing, it is alleged that the Agent made false or misleading statements as contemplated in s. 509(1)(a) of the Act when the Agent reported that the required CE courses had been completed to renew their life and accident & sickness ("A&S") certificates of authority for the 2020/2021 certificate terms, when in fact, they were not completed and subsequently violated s. 480(1)(b).

Facts and Evidence

This case proceeded by way of written Report to Council dated June 24, 2022 (the "Report"). The Report was forwarded to the Agent for review and to allow the Agent an opportunity to provide the Council with any further evidence or submissions by way of Addendum.

The Agent held Life and A&S certificates of authority during the period of January 5, 2018 to May 9, 2022 when the Agent's certificates of authority were suspended due to the failure to produce CE records in accordance with s. 31(3) of the Regulation.

As part of the AIC's annual CE audit, an "Alberta Insurance Council Continuing Education (CE) Audit" formal demand for information (the "Demand") was sent to the Agent by way of email, dated March 29, 2022. The Demand was provided in accordance with s. 481(2) of the Act and required the Agent to produce CE certificates relating to all declared CE certificates within the 2020/2021 certificate term. The Demand provided for a response within 30 days of receiving the Demand, that being April 28, 2022.

On April 5, 2022, an email was sent by the AIC, reminding the Agent to respond to the Demand by the deadline

provided, that being April 28, 2022.

On April 11, 2022, the Agent provided the AIC with eleven (11) CE certificates as follows:

- **772 [redacted] dated April 2, 2020
- **191 [redacted] dated April 1, 2020
- **296 [redacted] dated June 1, 2020
- 475** [redacted] dated June 1, 2020
- **945 [redacted] dated August 11, 2020
- **742 [redacted] October 2, 2020
- **245 [redacted] November 26, 2020
- **269 [redacted] February 25, 2021
- **609 [redacted] May 19, 2021
- **083 [redacted] May 27, 2021
- **330 [redacted] June 7, 2021

By way of email dated the same, the AIC requested the following information from the Agent:

[...]

We still require the following course certificates:

- **543 [redacted] – June 7, 2021
- **542 [redacted] – June 7, 2021
- **182 [redacted] -June 7, 2021
- **711 [redacted] – June 7, 2021
- **840 [redacted] – June 7, 2021
- **808 [redacted] -June 7, 2021
- **611 [redacted] – June 7, 2021
- **774 [redacted] – June 3, 2020 [sic]
- **541 [redacted] – May 31, 2021
- 565** [redacted] – May 31, 2021
- **539 [redacted] – May 17, 2021
- **538 [redacted] – May 17, 2021
- **884 [redacted] – May 13, 2021
- **537 [redacted] – May 10, 2021
- **944 [redacted] – Aug 21, 2019 (prior year carry forward)

As well, you provided course certificate #475** [redacted] and #**296 [redacted] dated June 1, 2020. But you reported the courses as July 1, 2020 completion. Please provide the July 1, 2020 certificates or explain the date discrepancy.

[...]

On April 27, 2022, the AIC requested the Agent provide the information set out in the April 11, 2022 email, by the deadline provided, that being April 28, 2022.

On April 28, 2022, the Agent provided the AIC with the following information, by way of email:

[...]

Please find attached a pdf of certificates.

There are a few that I cannot locate, however I am trying to recover from a previous computer.

[...]

In the same email dated April 28, 2022, the Agent provided the AIC with twelve (12) CE certificates as follows:

- **543 [redacted] dated June 7, 2021

- **542 [redacted] dated June 7, 2021
- **182 [redacted] dated June 7, 2021
- **711 [redacted] dated June 7, 2021
- **840 [redacted] dated June 7, 2021
- **808 [redacted] dated June 7, 2021
- **611 [redacted] dated June 7, 2021
- **774 [redacted] dated June 3, 2021
- **541 [redacted] dated May 31, 2021
- 565** [redacted] dated May 31, 2021
- **884 [redacted] May 13, 2021
- **944 [redacted] August 21, 2019

On April 28, 2022, the AIC contacted [M.L.] [redacted] (hereinafter referred to as “Course Provider 1”) requesting the following:

[...]
Could you please verify if the broker, Ronald Balachandra (CIPR ***479) [redacted], completed the following courses on the dates indicated?

- 475** [redacted] – June 1, 2020
- 475** [redacted] – July 1, 2020
- **296 [redacted] – June 1, 2020
- **296 [redacted] – July 1, 2020
- **182 [redacted] June 7, 2021
- **711 [redacted] – June 7, 2021
- **840 [redacted] – June 7, 2021
- **808 [redacted] – June 7, 2021
- **611 [redacted] – June 7, 2021
- **774 [redacted] – June 3, 2021
- [...]

By way of email also date April 28, 2022, the AIC contacted [E.L.] [redacted] (hereinafter referred to as “Course Provider 2”) requesting the following information:

[...]
Could you please verify if the broker, Ronald Balachandra (CIPR ***479) [redacted], completed the following courses on the dates indicated?

- **543 [redacted] – June 7, 2021
- **542 [redacted] – June 7, 2021
- **541 [redacted] – May 31, 2021
- 565** [redacted] – May 31, 2021
- **539 [redacted] – May 17, 2021
- **538 [redacted] – May 17, 2021
- **537 [redacted] – May 10, 2021
- [...]

On April 29, 2022, the AIC received an email from [Course Provider 1] providing the following information:

[...]
Please see the attached certificates. I am confirming he’s completed the following:

- 475** [redacted] – June 1, 2020 - [course name] [redacted]**
- 475**[redacted] – July 1, 2020 - [course name] [redacted]

****296 [redacted] – June 1, 2020 - [course name] [redacted]**

****296 [redacted] – July 1, 2020 - [course name] [redacted]**

****182 [redacted] June 7, 2021 - [course name] [redacted]**

****711 [redacted] – June 7, 2021 - [course name] [redacted]**

****840 [redacted] – June 7, 2021 - [course name] [redacted]**

****808 [redacted] – June 7, 2021 - [course name] [redacted]**

****611 [redacted] – June 7, 2021 - [course name] [redacted]**

****774 [redacted] – June 3, 2021 - [course name] [redacted]**

I do not see the certificates for the July dates, but those appear to be duplicate to the June dates.

[...]

[Emphasis added in original document]

On May 5, 2022, the AIC emailed [Course Provider 2] with the following request:

[...]

Could you please confirm the legitimacy of the attached certificates? Is there a record of the short form of his name “Ron” Balachandra completing the courses?

****543 [redacted] – June 7, 2021**

****542 [redacted] – June 7, 2021**

****541 [redacted] – May 31, 2021**

565 [redacted] – May 31, 2021**

****539 [redacted] – May 17, 2021**

****538 [redacted] – May 17, 2021**

****537 [redacted] – May 10, 2021**

[...]

By way of email dated the same, [Course Provider 2] provided the following information:

[...]

Thanks for clarifying – yes we do have a record of “Ron” Balachandra completing these courses. [...] The attached certificates are valid – we have attendance records for the following sessions:

Ron Balachandra		[email] [redacted]	6/7/2021	[course name] [redacted]
Ron Balachandra		[email] [redacted]	6/7/2021	[course name] [redacted]
Ron Balachandra		[email] [redacted]	5/31/2021	[course name] [redacted]
Ron Balachandra		[email] [redacted]	5/31/2021	[course name] [redacted]

We checked but did not find Ron’s detail’s in [K.A.]’s [redacted] May 17th session attendance records so it is possible he did not sign in/sign out to those sessions which is why a certificate was not issued.

[...]

[Emphasis added in original document]

In an email dated the same, the AIC emailed the Agent with the following information:

[...]

You reported the following courses as completed in the July 2020-June 2021 renewal period:

***539 [redacted] with a completion date of May 17, 2021 [Course Provider 2]

***538 [redacted] with a completion date of May 17, 2021 [Course Provider 2]

***537 [redacted] with a completion date of May 10, 2021 [Course Provider 2]

[Course Provider 2] confirmed they had no records of you completing these courses. Without these courses, you are short 1 A&S credit for the July 2020-June 2021 licensing renewal period.

Should you have alternate course certificate(s) to meet the CE requirement, please provide them ASAP.

[...]

Discussion

Section 509(1)(a) of the Act provides that “[n]o insurer, insurance agent or adjuster may make a false or misleading statement, representation or advertisement.” Offences such as those considered under s. 509(1)(a) of the Act are strict liability offences. As such, the AIC only has the onus to prove that the Agent’s statement that the required CE certificates had been completed was false. Once this occurs, the onus then shifts to the Agent to establish a defence of due diligence. To establish this, the Agent must prove that all reasonable measures were taken to avoid making the false statement.

The Council considered all evidence before it, in particular the information provided by Course Provider 1, dated April 29, 2022, whereby the two (2) CE courses, with July 2021 completion dates, declared by the Agent, appeared to have been duplicates of CE courses declared by the Agent with completion dates in June 2021. In addition, the Council considered the evidence from Course Provider 2 dated May 5, 2022, confirming that the Agent did not appear on the attendance sheet for a CE course declared by the Agent with a completion date of May 17, 2021. It is the responsibility of the Agent to ensure that they have completed the CE hours for every certificate term, as required by the Regulation, prior to the renewal of their certificates of authority. Therefore, the Council finds that the Agent made a false or misleading statement as contemplated by s. 509(1)(a) of the Act and therefore has breached s. 480(1)(b) of the Act.

As to the appropriate sanction for this conduct, the Council has the discretion to levy a civil penalty in the amount of \$1,000.00 per demonstrated offence pursuant to s. 480(1)(b) and 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, AR 125/2001. As an insurance intermediary, the Agent is required to complete applications on behalf of clients, as such, it is required that a high level of accuracy and due diligence be exercised by the Agent when completing his own applications. Based on these factors and the evidence before the Council, the Council orders that a civil penalty in the amount of \$750.00 per certificate term be levied against the Agent.

The civil penalty of \$750.00 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 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: October 5, 2022

[Original Signed By]
Andy Freeman, 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

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*