

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 Sekib Sadic
(the "Agent")

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

This case involved an alleged violation pursuant to s. 465(1) of the Act. Specifically, that the Agent failed to have active Errors and Omissions ("E&O") insurance coverage. In so doing, it is alleged that the Agent subsequently violated s. 480(1)(b) of the Act.

Facts and Evidence

This matter proceeded by way of written Report to Council dated July 14, 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 Accident & Sickness ("A&S") certificates of authority, periodically, during the period of March 31, 2020 to June 30, 2022 when his certificates of authority expired.

On June 27, 2022, the Agent contacted the AIC Licensing Department with the following information:

[...]
My name is Sekib Sadic CIPR#: ***856 [redacted]

I wanted to renew my licence [sic] for Life and A&S but was told that I need a valid E&O policy in order to do so. I have been working in another job where It [sic] does not require me to have these licences [sic] and E&O insurance so I cancelled my E&O since I had no need for it but I would like to renew my licences [sic] just in case I want to take on another role in the future which require [sic] this. Since I do not need E&O currently how can I get passed this step as I would like to not have to pay for the coverage as I don't need it but when the time comes that I do I will of course be purchasing it then. [...]

On June 28, 2022, the AIC licensing officer provided the Agent with the following information:

[...]

In reply to your email regarding license and renewing your licenses, it is a requirement in Legislation that all licensed individuals have Errors & Omissions coverage. Therefore, you MUST have E&O coverage to hold a license, if you cancelled your Errors & Omissions coverage as you have indicated you have you are in violation of the Insurance Act and Regulations.

[...]

As per the **Insurance Act**

Financial guarantee

465(1) Every business and individual that holds a certificate of authority must meet the requirements respecting financial guarantees set out in the regulations.

(2) This section does not apply in respect of (a) a certificate of authority issued to an employee of a licensed insurer, or (b) a certificate of authority for a prescribed class or type of insurance or for a prescribed class or type of certificate holder.

Errors and omissions insurance

33(1) The financial guarantee required by the Act is a policy of insurance against errors and omissions that meets the requirements of this section.

(2) The policy must be issued by a licensed insurer and be in a form and contain the terms, conditions, definitions and exclusions approved by the Minister including the period after the term of the policy in which claims may be made.

(3) The policy must provide coverage for errors and omissions for which a claim is made during the term of the policy.

(4) [...]

(5) The insurer must provide 30 days' advance notice to the Minister by certified mail of the cancellation or non-renewal of the policy or any change whereby the policy does not meet the form and contents required under subsection (2).

To renew your licenses, you must have E&O coverage and must enter the E&O policy information.

Your licenses will automatically expire on June 30, 2022 if they are not renewed and you will not be licensed to act as an insurance agent.

[...]

[Emphasis added in original document]

On July 7, 2022, the AIC investigator emailed a Request for Information (the "Request") to the Agent, which provided a deadline of July 22, 2022. The Request stated, in part:

[...]

The AIC is in the process of reviewing your errors and omissions insurance coverage.

In order to assist in my investigation, please provide the following information:

1. Documentation demonstrating proof of errors and omissions insurance coverage from June 23, 2021 to June 30, 2022; and,
2. If you are unable to provide this documentation, an explanation as to why you are unable to provide it.

[...]

By way of email dated the same, the Agent provided the following information to the AIC investigator:

[...]

I had stopped my errors and omissions for that time frame as I had left my role as an insurance advisor at that time and was not acting as an insurance representative then.

By way of email dated July 12, 2022, the AIC investigator contacted [M.H.] [redacted] with [I.I.C.] [redacted] (hereinafter the “E&O Provider”) requesting the following information:

[...]

We are reviewing the E&O coverage for one of our licensees, Sekib Sadic, as it appears he has cancelled his E&O coverage.

Could you please kindly confirm the existence of the following E&O coverage:

Sekib Sadic, Policy# ***-508 [redacted], [E&O Provider] [redacted] (CIPR: **671) [redacted], Oct 19, 2020 to Oct 19, 2021

Could you please also confirm when this policy was in existence, and if there have been any renewals or cancellations.

[...]

On July 13, 2022, the Professional Liability Manager for the E&O Provider responded to the AIC investigator with the following information, by way of email:

[...]

Yes this policy is cancelled.

It has been renewed for the October 19th 2021-22 term but cancelled effective March 23rd 2022.

[...]

The Agent produced further representations within his correspondence with the AIC investigator dated July 22, 29 and August 2, 2022.

Discussion

The Council contemplated s. 465(1) of the Act, which provides that “*Every business and individual that holds a certificate of authority must meet the requirements respecting financial guarantees set out in the regulations.*” (emphasis added). This offence is strict liability in nature. Under a strict liability offence, the AIC has the onus to prove that the Agent failed to have active E&O insurance coverage during a period in which he held certificates of authority. Once this occurs, the onus then shifts to the Agent to establish a due diligence defence. The Agent must prove that all reasonable means were taken to avoid making the offence. There is no requirement on the AIC to prove the Agent’s intent.

In consideration of the evidence before it, the Council is satisfied that the Agent failed to have the proper E&O insurance coverage in place during the 2021/2022 certificate term. The Act specifically states, “*Every [...] individual that **holds** a certificate of authority [...]*”.

Given that the Agent held certificates of authority, it is the responsibility of the Agent to ensure that he also held valid E&O insurance coverage. The Agent has not met the burden of proof to establish a due diligence defence. As such, the Council finds the Agent guilty of violating s. 465(1) and has subsequently violated s. 480(1)(b) of the Act.

In terms of the applicable sanction, the Act requires that all holders of certificates of authority have active E&O insurance coverage. 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. The Council considered the Agent's honesty and transparency with the AIC by self-reporting his lack of active E&O insurance coverage. Based on this factor, the Council orders that a civil penalty not be levied against the Agent.

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: 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*