

ALBERTA INSURANCE COUNCIL
(the “AIC”)

In the Matter of the *Insurance Act*, R.S.A. 2000 Chapter I-3
(the “Act”)

And

Perlinger Group Benefits Ltd.
(the “Agency”)

And

As represented by
Joseph Perlinger,
(Designated Representative (“DR”))

DECISION
OF
The Life Insurance Council
(the “Council”)

This case involved an alleged violation of s. 452(3) of the Act. Specifically, that the Agency employed an individual who acted in the capacity of an insurance agent, when the individual did not hold a valid and subsisting certificate of authority. In doing so, it is alleged that the Agency subsequently violated s. 480(1)(b) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated February 3, 2023 (the “Report”). The Report was forwarded to the Agency, through the DR, to allow the Agency an opportunity to provide the Council with any further evidence or submissions by way of Addendum.

The Agency is licensed as a life and accident & sickness insurance agency since January 5, 2005, through to present day.

On January 25, 2022, the AIC received an email from [N.T.] [redacted] (hereinafter the “Complainant”). The email from the Complainant provided the following information:

[...]

We exercised our option to take life insurance coverage shown to be available through group benefits provider. We engaged with [R.L.] (hereinafter the “Alleged Unlicensed Individual”) at Perlinger Group. [The Alleged Unlicensed Individual] confirmed that \$100,000 policy could be taken without a medical and provided us the rate table that indicated the cost per \$1,000 of coverage. After completing and submitting the application we waited for the premium to be taken from out [sic] account Dec 1. After several attempts to follow up we were advised by [the Alleged Unlicensed Individual] that the product was not actually offered as presented. We were completely mislead [sic] and scrambled to try and secure life insurance and ended up securing a 20 year Term policy which had higher monthly premiums. Perlinger attempted to

offer a [M.L.] [redacted] (hereinafter “Insurer 1”) product in exchange but it was more costly and not equivalent. I asked them to consider the cost difference in total premium costs to us for a 16 year period to age [redacted] as an E & O. They have responded explaining that the original offering would have actually had premium increases every 5 years which was never a part of the discussion when we tried to initially secure it. I don’t see that [the Alleged Unlicensed Individual] actually holds a license to sell insurance in Alberta and [the Alleged Unlicensed Individual] certainly has mislead us. [...]

On February 1, 2022, an AIC Investigator requested additional information from the Complainant.

On February 28, 2022, the Complainant provided the AIC Investigator the following information:

Here is the initial email with [B.T.]’s [redacted] (hereinafter the “Complainant’s Spouse”)’s group coordinator regarding our request that got everything going with Perlinger. I will provide the remaining correspondence. [...]

In the same email, the Complainant provided email correspondence from the Alleged Unlicensed Individual to the Complainant and the Complainant’s Spouse, during the period of November 9, 2021, and January 25, 2022.

[November 9, 2021, 8:48 PM]
From: [The Alleged Unlicensed Individual]
To: [The Complainant’s Spouse]

[...]

Your current amount of basic life insurance under the [D.X.P.] [redacted] (hereinafter “Employer”) group insurance plan with [Insurer 1], is a flat \$[redacted]. The contract also provides for Optional Life under the group plan, increments of \$10,000, with any amounts of insurance subject to medical evidence of insurability/proof of health. Should you terminate employment, this Optional insurance also terminates.

[Insurer 1] also offers an Optional Personal Life Insurance, for any employees who are insured under a [Insurer 1] group plan. This I believe is the better option for you. See attached for rates.

The Optional Personal Life Insurance allows you to purchase increments of \$25,000 to a maximum of \$500,000. Up to \$100,000 for the employee is available with no medical details required. (Note though, the pre-existing condition clause as outlined in the attached). This policy belongs to you and if you ever terminated [sic] from the group plan, you still retain this personal life coverage.

Note that there is also the options [sic] to buy Optional Critical Illness insurance if that is something you are interested in.

Take a look at the above and if this insurance is what you were looking for. I [sic] have reached out to [Insurer 1] to determine next steps to apply for this coverage and I will send that over to you just as soon as I have it. [...]

[November 15, 2021, 11:39 AM]
From: [The Alleged Unlicensed Individual]
To: [The Complainant’s Spouse]

[...]

Attached is the application to apply for the Personal Life benefit. You can also go to this link [redacted] and get a quote/apply online.

This product is available to anyone insured under a [Insurer 1] group plan. [...]

Note that if you are applying for \$100,000 or less, you do NOT have to complete the medical questions. [...]

[November 16, 2021, 1:20 PM]
From: [The Alleged Unlicensed Individual]

To: [The Complainant's Spouse]

[...]

The Contract/Plan number is G0***** [redacted]. The Plan Member (you) certificate number is 5*** [redacted]. [...]

Yes, please email the forms to me and I will get them looked after for you. I know the right [Insurer 1] people to send them to on your behalf.

[...]

[November 19, 2021, 10:23 AM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant's Spouse]

[...]

After several attempts with [Insurer 1] to find a way for me to forward your application via email, it seems the only way to submit this is by mailing it to the address on the form. This seems like such an archaic process [sic] but I have been informed this is the way the application must be submitted. [...].

My apologies, as I was very confident [sic] I would be able to find a person with an email address.

[...]

[December 23, 2021, at 7:22:49 AM PST]

From: [The Complainant]

To: [The Alleged Unlicensed Individual]

[...] [the Complainant's Spouse] has shared the news with me regarding [the Complainant's Spouse's] Personal Optional Life plan with [Insurer 1].

Clearly after seeing what has played out [sic] I believe it would be in order to report this matter to your E&O carrier. We had a term life plan [Insurer 1] that was expiring [sic] and we relied on the information that you provided to us regarding the Personal Option Life Benefit without medical requirement to fill the void with the expiring of our Term Life. We completed the forms and were advised the premium amount and we simply were waiting for the policy to be issued.

To find this out at this point in time causes great peril to us as now we don't have an option of Personal Life plan that would carry with [the Complainant's Spouse] once [the Complainant's Spouse] retires or terminates employment, the option you provided us is subject to medical review and we can't now go back and extend our Term life plan (which was an option though more expensive compared to what you quoted to us).

We find ourselves in a real pickle and right now should anything happen to [the Complainant's Spouse] we have no coverage [sic] and this is just unacceptable.

[...]

[December 23, 2021, 2:58 PM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant]

[...]

We certainly want to find a solution to the life insurance product that was recommended to [the Complainant's Spouse], and we have continued to pursue with [Insurer 1], their approval of the application [the Complainant's Spouse] submitted. The [Insurer 1] underwriters have let us know they too are continuing to work on this and will be back to us with further details on a solution. Everyone is aware that a solution should be expedited.

Just as soon as we have more detail back from [Insurer 1], we will be in touch.

[...]

[January 4, 2022, 8:50 AM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant]

[...]

We have received confirmation from [Insurer 1] that they are working on a solution for \$100,000 policy Optional Life policy for [the Complainant's Spouse]. There are just a couple of details I am waiting on [sic] but I will be back to you asap.

[...]

[January 6, 2022, 2:23 PM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant]

[...]

[Insurer 1] has agreed to provide up to \$100,000 of the **Group** Employee Optional Life Benefit, with no medical evidence required. This coverage is in place while [the Complainant's Spouse] is an active and eligible employee under the [Insurer 1] [Employer] Policy G0***** [redacted]. [The Complainant's Spouse] does have the ability to convert [the Complainant's Spouse's] insurance to an individual life policy should [the Complainant's Spouse] leave [Employer]. [The Complainant's Spouse] would need to apply for the individual coverage within 31 days of [the Complainant's Spouse's] termination date from the group plan.

[Insurer 1] will require the attached application to be completed. Please carefully read through all the conditions. Note that you are not required to complete Section [sic] 5(a) and 6, unless you are applying for more than \$100,000.

Please email the application back right away. It would be preferable if you would email the application back to me, as I have contacts with [Insurer 1] I have been dealing with directly on this situation. If you are not comfortable with that, you can certainly email the application and void cheque directly to [Insurer 1]. Please let me know when you have done that.

Once the application and Void [sic] cheque are with [Insurer 1], they can proceed with processing the application. You will likely not get a decision confirmation back before [...] tomorrow, but it will be sent to you within the 30 days that you have to cancel your [redacted] (hereinafter "Insurer 2") 20 term policy. Would you please confirm when that 30 day [sic] option to cancel expires?

[...]

[January 17, 2022, 12:10 PM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant]

[...]

We have further reviewed your comments and the details regarding the options for Individual Life Insurance for [Complainant's Spouse].

The Individual Optional Life Insurance policy I referred to in my Nov 9, 2021 email to [the Complainant's Spouse] [...], was for a [Insurer 1] Personal Optional Life product. This was the product that [Insurer 1] subsequently advised was not available in this specific situation. The rates for this policy are age banded, as identified to [the Complainant's Spouse] in the same Nov 9, 2021 email. Assuming a January 1, 2022 effective date, based on [the Complainant's Spouse]'s current age of [redacted], [redacted] status and \$100,000 of basic life insurance, the premium for [the Complainant's Spouse] for the full term of coverage to [the Complainant's Spouse's] 70th birthday (the policy termination age), would be approximated at \$[redacted].

In your email of Jan 7, 2022, [...], you have identified a monthly charge for the [Insurer 1] Personal Optional Life product of \$[redacted] per month. Would you please assist in confirming where your [sic] obtained, or how you determined the \$[redacted] per month you quoted as monthly premium for this product?

The [Insurer 2] 20 year Term Life insurance product [the Complainant's Spouse] secured coverage under, based on your confirmation [...], the monthly rate for this product is \$[redacted]. Over the duration of a 20 year [sic] term, the premium would be approximated at \$[redacted].

The Group Optional Life would only be effective to [the Complainant's Spouse]'s 65th date of birth, and as previously noted, is only in effect while [the Complainant's Spouse] actively [sic] employed. There is the ability to convert this insurance to an individual plan, and providing the application for the individual insurance is received within 31 days of [the Complainant's Spouse's] termination date, no medical evidence is required. The rates for this conversion option would definitely be higher than what [the Complainant's Spouse] would be paying under the group plan. [...]

It appears that the [Insurer 2] Term Life product [the Complainant's Spouse] is insured under, will cost you less over the full term, in comparison to the [Insurer 1] Personal Optional Life, and from a cost savings perspective would be the better option. [...]

[January 25, 2022, 2:24 PM]

From: [The Alleged Unlicensed Individual]

To: [The Complainant]

[...]

The Personal Optional Life application that [the Complainant's Spouse] submitted was for \$100,000, as this was the amount of insurance this type of policy offers, with no medical evidence. [...]

The [Insurer 1] insurance rates we have always provided are age banded. I'm not sure that you are understanding the rates increase every five years, based on [the Complainant's Spouse]'s age. While [the Complainant's Spouse] initially is in the age [redacted] age band, [the Complainant's Spouse's] premium would increase [...] when [the Complainant's Spouse] turns [redacted]. Then again we [sic] [the Complainant's Spouse] turns [redacted]. This means that each time [the Complainant's Spouse] moves to a new age band due to [the Complainant's Spouse's] age, the rate per \$1,000 increases. I have assumed a January 1, 2022 start date for the purposes of the premium comparison, with [the Complainant's Spouse] currently at [redacted] years of age, and being a [redacted].

Based on this calculation, over the term of [Insurer 1] Personal Optional Life Policy, to age 70, the premium would be approximately \$[redacted].

[...]

As you have indicated the monthly premium for your [Insurer 2] Term 20 at [redacted] per month, over 20 years that would be approximately \$[redacted]. The total cost then, for the insurance [the Complainant's Spouse] is currently insured under, will cost you less over the full term.

We have also offered that [the Complainant's Spouse] could take the Group Optional Life Insurance, which would terminate at age [redacted] (or unless [the Complainant's Spouse] left employment). This too would provide \$100,000 without medical evidence. I have calculated over the full term, to age [redacted] would be approximately \$[redacted] in total premium.

[...]

With the cost of the insurance over the full term being the concern you have identified, the less expensive insurance option is the current [Insurer 2] 20 product [the Complainant's Spouse] is currently insured under. While [Insurer 1] advised that the Personal Option Life Insurance product was not available, it would have resulted in you paying higher premiums over the term, so based on cost, it would not have been the best option for you.

If [the Complainant's Spouse] would like to have a virtual meeting with Joe Perlinger, who is the Insurance Advisor, he would welcome the opportunity to have further discussion with [the Complainant's Spouse] [...].
[Emphasis added in original document]

On March 8, 2022, the AIC Investigator sent a Request for Information to the Agency requesting the following information:

[...]

The AIC is in the process of reviewing a complaint from [the Complainant] whereby [the Complainant] has alleged that [the Complainant] and [...], [the Complainant's Spouse], were led to believe by [the Alleged Unlicensed Individual] of

Perlinger Group Benefits Ltd. that a certain [Insurer 1] life insurance product was available to them to purchase. They pursuantly relied on this information when planning for their life insurance coverage but were then notified by Perlinger Group Benefits Ltd. that this life insurance product was actually not available to them as an option from [Insurer 1]. [The Alleged Unlicensed Individual] is also not licensed with the AIC.

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

1. A detailed timeline and explanation of the events that pertain to this matter;
 2. Any correspondence between [the Alleged Unlicensed Individual], others at Perlinger Group Benefits Ltd., and the [the Complainant] and [the Complainant's Spouse] through email or otherwise, that pertains to this matter;
 3. An explanation as to why [the Alleged Unlicensed Individual], an individual not licensed with the AIC, was assisting the [Complainant] and [the Complainant's Spouse] with their life insurance application process; and,
 4. Any other information or documentation which you feel may assist in the understanding of the material facts.
- [...]

On March 23, 2022, the Agency responded to the AIC Investigator with the following information, by way of email:

[...]

[The Alleged Unlicensed Individual] acted only as a service rep for the **group** insurance, responding to questions. Never did [the Alleged Unlicensed Individual] represent [the Alleged Unlicensed Individual] as an individual life sales person [sic], or act in that role.

Attached are the emails between [the Complainant's Spouse], [the Complainant], [the Alleged Unlicensed Individual] and myself. Below is a summary of the communication between our firm and [the Complainant]/[the Complainant's Spouse].

- [The Complainant's Spouse] requests info on optional life available [sic]
- We advise on both the group optional and also identify the personal optional, letting [the Complainant's Spouse] know this would be a good option as no NEM to \$100k.
- [The Complainant's Spouse] applies.
- We are advised by [Insurer 1] the Personal Life product is not available in this situation and advised [the Complainant's Spouse], and provided options (group optional with \$100k NEM, and [E.L.] [redacted] (hereinafter "Insurer 3") individual products (Joe Perlinger ran the illustrations and the client was advised Joe would connect to explore these options if interested) [sic]
- [The Complainant] begins to respond on behalf of [the Complainant's Spouse] advising this was not acceptable and because [the Complainant] felt they had to buy an alternate policy ([Insurer 2]-20 [the Complainant] referred to), at a higher cost, [the Complainant] wanted an approximate \$5,000 from Perlinger in compensation [sic]
- We identified to [the Complainant] through several emails, that even if the Personal Life had been available, it would have cost [the Complainant's Spouse] more in total premium than the cost [the Complainant] quoted for [the Complainant's] [Insurer 2]-20 policy.
- In response, [the Complainant] suggested we would need to use our E&O insurance, ultimately to provide [the Complainant] compensation, that [the Alleged Unlicensed Individual] would be reported for "selling insurance" while not being licensed, and advising [the Complainant's Spouse] to make sure [the Complainant's Spouse's] employer was aware that Perlinger was giving out false information to their employees.

Nov 9, 2021 – initially spoke to [the Complainant's Spouse], [the Complainant's Spouse] was asking what optional life insurance would be available under [the Complainant's Spouse's] **group** insurance [...]

Nov 15 – emailed the Personal Life insurance application to [the Complainant's Spouse] [sic]

Nov 16 – emailed the completed application and void cheque to [Insurer 1], for [the Complainant's Spouse]. Was advised by [Insurer 1] it had to be mailed, so let [the Complainant's Spouse] know.

Dec 8 – at [the Complaint's Spouse]'s request, followed up with [Insurer 1] to determine the status of [the Complainant's Spouse's] Personal Life application. No one at [Insurer 1] was getting back to [the Alleged Unlicensed Individual]. Spent at least two hours on the phone with [Insurer 1].

Dec 14 – reached out to [S.A.] [redacted] (hereinafter the “Service Rep”) and [D.A.] [redacted] (hereinafter the “Sales Rep”) (our service rep and Sales Rep) asking if they could help us or direct [the Alleged Unlicensed Individual].

Dec 16 – followed up with them both again as had no response yet. Advised [the Complainant’s Spouse] [the Alleged Unlicensed Individual] was still checking on this for [the Complainant’s Spouse].

Dec 16 – we received a phone call from [the Sales Rep] advising the situation, in that they were not offering the Personal Life coverage under the [Employer] Plan. Only Group Optional Life. We pushed back advising [Insurer 1] we needed a solution. Issue the Personal Life as a one time [sic] standalone [sic] policy? Even if they wanted to, [Insurer 1] advised due to CLHIA rules, two different optional life plans could not exist on one group policy. Solution expressed was to amend the group contract allowing a \$100k NEM for the group optional life coverage that was in place [...]

Dec 21 – email to Joe, as per Joe’s request, providing [the Complainant’s Spouse]’s information so Joe could run individual life quotes [...]

**Dec 22 This is an important email. Note where [the Alleged Unlicensed Individual] indicates “Joe Perlinger, copied in this email, has run some individual quotes for you...” and “Joe will submit the application..” and “Joe is able to assist you if you have any questions on the individual quotes.” [...]

Dec 23– [the Complainant] sends an email, with a veiled threat that we need to report this matter to our E&O insurance Carrier [sic].

Jan 6, 2022 – [the Complainant] sends email requesting \$5,040 in what [the Complainant] thought were additional costs [the Complainant] incurred. We respond again on the group optional life coverage available, \$100k no evidence required [sic] [...]

Jan 7– [the Complainant] responds this is not an agreeable or comparable option and continues to request money from Perlinger for difference in costs. [...]

Jan 16– email from [the Complainant] trying to identify again why we owe money and asked again for payment [sic]

Jan 25– [the Complainant]’s last email advising [the Complainant] was filing a complaint with AIC and also advises [the Complainant’s Spouse] to discredit Perlinger with [the Complainant’s Spouse’s] employer stating we were providing false information [sic]

[...]

[Emphasis added in original document]

In the same email, the Agency provided the AIC Investigator with copies of the following emails:

1. December 22, 2021 – From the Alleged Unlicensed Individual to the Complainant’s Spouse (hereinafter referred to as the “December 22, 2021, Correspondence”);
2. December 23, 2021 – From the Alleged Unlicensed Individual to the Service Rep (hereinafter referred to as the “December 23, 2021, Correspondence”); and
3. Undated – From the Alleged Unlicensed Individual to the Service Rep (hereinafter referred to as the “Undated Correspondence”).

The December 22, 2021, Correspondence provided the following:

[...] thank you for your patience as we continued to pursue the status of your life insurance application.

After several inquiries and some confusion, [Insurer1] has confirmed back, that the [Employer] group plan, never had the Personal Optional Life benefit included in the group benefit plan, so they have not processed your application. My sincere apologies to you, as it was my understanding that this type of life insurance was available to [Employer] employees. **I did try to get an exception to have your policy accepted** but unfortunately the underwriters are not able to accommodate this under the circumstances.

The [Employer] plan does offer Optional Life that you can purchase through the group plan. It does require medical underwriting. You can purchase increments of \$10,000 to a maximum of \$500,000. The rates are below and based on your age and smoker/non-smoker status. Once approved, this insurance is in effect unless you leave the company and then it terminates. I have attached the Optional Life application form in case this is an option you wish to pursue.

As you were provided incorrect information and have been waiting, we would like to suggest a different route for you. Joe Perlinger, copied in this email, has run some individual quotes for you [...]. [...], the questions can usually be answered over the phone and the insurance can be placed in a couple of weeks. This has nothing to do with your [Employer] policy and would be insurance you would keep regardless of your employment status.

The process for application is very easy and seamless. There are a few questions that you can answer via email, and will require your banking info and beneficiary. With the below questions answered Joe will submit the application electronically, and you will receive an email to sign. You will also receive a call from a nurse practitioner for the health questions.

- Preferred phone number for you?
- Alternate phone number?
- Birth Country?
- Address?
- Marital Status?
- Email address?
- Occupation and occupational duties?
- Financial information. Annual earned income?
- Total approximate net worth (Assets minus liabilities)?
- Have you declared bankruptcy within the last 5 years?
- Insurance history. Have you applied for insurance in the past with [Insurer 3]?
- Do you have any individual Life, Critical Illness or Disability Insurance in force or pending with [Insurer 3] or any other carrier?
- Attach a void cheque or PAD banking info
- List a beneficiary? Name and %. If a minor is listed we will require a trustee listed.

The 10 year term option for 100k is \$[redacted]/month and guaranteed for ten years.

The 10 year term option for 150k is \$[redacted]/month and guaranteed for ten years.

The 10 year term option for 200k is \$[redacted]/month and guaranteed for ten years.

Again we are sorry for any inconvenience or confusion, but the above options should provide you the life insurance coverage you are looking to have, [...].

Joe is able to assist you if you have any questions on the individual quotes.

[...]

[Emphasis added and added in original document]

The December 23, 2021, Correspondence provided the following:

[...], there is a lot of mixed information around all of this.

See attached emails from [the Sales Rep]. [The Sales Rep] had originally advised that a group plan could have both standard Optional Life *and* Personal Optional Life. We had always understood this to be the case with [Insurer 1] group plans. Then [the Sales Rep] advised that underwriting said a group plan could *not* offer both due to CLHIA rules.

We need to find a solution to provide this employee the \$100,000 Personal Optional Insurance [the Complainant's Spouse] applied for, without medical evidence. [...]. [The Complainant's Spouse] is an active employee on the group, and has not given any indication [the Complainant's Spouse] will be terminating. Originally, [the Complainant's Spouse] reached out just looking at options to increase the \$[redacted] group life insurance [the Complainant's Spouse] held. We advised [...] [the Complainant's Spouse] could apply for the Personal Optional benefit, \$100,000, no medical evidence, believing this was a [Insurer 1] offering to [Employer] employees.

We have looked at the [Employer] billing and can see there are employees who are insured for various amounts of group optional life under the plan. What if we grandfathered those people and switched the [Employer] group offering to the Personal Optional Life, instead of the standard optional life? Then you could approve [the Complainant's Spouse's] application?

As we looked further into this, we noticed another client [redacted], has a \$100,000 NEL on their Optional Life [...]

[...] from [Employer] employee booklet [...]. Why do they have to provide evidence on all amounts of insurance? Can they not have the \$100,000 NEL as well? Different maximums as well?

[...] This may have to escalate [...] as we need to find some solution asap to get [the Complainant's Spouse] [...] life coverage.

[...]

[Emphasis added in original document]

The Undated Correspondence provided the following information:

[...] I think this should be the perfect solution.

Is the attached the form that will be required? Is it the most current one? And is there one that is a fillable PDF? What date is [the Complainant's Spouse] eligible on the plan? And to confirm, if no medical evidence is required, does [the Complainant's Spouse] still need to complete the height/weight questions? Or name of physician? And none of the medical questions in section 6?

Please also confirm that these are the correct, current optional life rates. So [the Complainant's Spouse] [...] would pay \$[redacted] per month if I am calculating correctly?

Can I tell [the Complainant's Spouse] that the \$100,000 is guaranteed? And if [the Complainant's Spouse] ever left the company, the Life Conversion option would still exist, for [the Complainant's Spouse's] basic and optional life amounts of \$150,000? Before I go back to [the Complainant's Spouse] again, I just want to be sure I am giving [the Complainant's Spouse] all the correct information.

[...]

On April 13, 2022, the AIC Investigator sent a further Request for Information requesting the following:

[...]

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

1. A job description of [the Alleged Unlicensed Individual]'s position with Perlinger Group Benefits Ltd. with supporting documentation; and,
2. A description of [the Alleged Unlicensed Individual]'s compensation from Perlinger Group Benefits Ltd. with supporting documentation.

[...]

On May 2, 2022, the Agency provided the AIC Investigator with a job description for the Alleged Unlicensed Individual (the "Job Description"). The Job Description stated:

[...]

- Client service and retention of employee group benefit plans
- Living Perlinger values of Customer View; Integrity; Partnership
- Ensure initial set up of group clients, and assist with ongoing administration
- Communicating and responding to client calls professionally and courteously with a diverse group of users
- Providing information, regarding products and services offered by various insurers (Group Insurance clients)
- Provide responses to plan members, and plan administrators, while maintaining the highest level of customer service
- Respond to client email and chat inquiries, both from the employer and from the employee directly
- Assist with completion of any paperwork for the administrators and/or the employees

- Effectively troubleshoot/resolve dental and drug claim issues for employees
 - Assist with the filing of life and/or disability claims
 - Participate in meetings with clients to assist with questions on administration or any issues
 - Participate in employee education sessions around their group benefits
 - Maintaining a positive and professional approach with clients
- [...]

In the same email of May 2, 2022, the Agency provided the AIC Investigator a copy of the Alleged Unlicensed Individual's most recent T4 – Statement of Remuneration Paid.

On February 7, 2023, the Agency provided the AIC Investigator additional information as follows:

[...]

I would like to take this opportunity to provide you with some background of my employee [the Alleged Unlicensed Individual]. [The Alleged Unlicensed Individual] has been in the insurance industry for close to [redacted] years. We met [the Alleged Unlicensed Individual] when [the Alleged Unlicensed Individual] was employed by [Insurer 3] servicing our block of clients on the insurance carrier side. We solicited [the Alleged Unlicensed Individual] to join our firm because during the time while [the Alleged Unlicensed Individual] was our service representative, we considered [the Alleged Unlicensed Individual] the best service rep we had experience [sic] to that point. Our decision to hire [the Alleged Unlicensed Individual] turned out to be a very good one, routinely we are receiving accolades from our clients who are delighted to work with [the Alleged Unlicensed Individual]. Our experience personally with [the Alleged Unlicensed Individual] is that [the Alleged Unlicensed Individual] goes the extra mile trying to satisfy any and all client service needs. I can see where upon review of [the Alleged Unlicensed Individual]'s correspondence that you would interpret [the Alleged Unlicensed Individual]'s efforts as offering advice. In [the Alleged Unlicensed Individual]'s defence [sic], [the Alleged Unlicensed Individual] in no way was intending to act as a licensed agent, [the Alleged Unlicensed Individual] felt like [the Alleged Unlicensed Individual] was providing information about a group product that was available under the existing policy and was mistaken. Since I received this report, I have met with my entire team of brokers and service/admin staff, and have outlined what constitutes providing the services of a licensed agent. I can guarantee you that this situation will never arise again.

[...]

Discussion

Offences such as those considered under s. 452(3) of the Act are strict liability offences. As such, the AIC has the onus to prove that the Agency employed an individual who acted in the capacity of an insurance agent, as defined in s. 1(bb) of the Act, during a period in which that individual did not hold a valid and subsisting certificate of authority to do so. Once this occurs, the responsibility then shifts to the Agency to demonstrate that due diligence was exercised to avoid employing an individual to act in the capacity of an insurance agent, when that individual did not hold a valid and subsisting certificate of authority to do so..

Section 1(bb) of the Act defines an “*insurance agent*” as:

(bb) “insurance agent” means a person who, for compensation,

- (i) solicits insurance on behalf of an insurer, insured or potential insured,
- (ii) transmits an application for insurance from an insured or potential insured to an insurer,
- (iii) transmits a policy of insurance from an insurer to an insured,

(iv) negotiates or offer to negotiate insurance on behalf of an insurer, insured or potential insured or the continuance or renewal of insurance on behalf of an insurer or insured, or

(v) enrolls individuals in prescribed contracts of group insurance,

but does not include the insurer

The evidence in the Report established that the Alleged Unlicensed Individual (hereinafter referred to as the “Unlicensed Individual”), acted in the capacity of an insurance agent as contemplated by s. 1(bb) of the Act. Specifically, the Unlicensed Individual, in the email dated November 15, 2021, at 11:39 AM, solicited insurance on behalf of an insurer when providing the Complainant’s Spouse with the application information to apply for the Personal Life benefit with Insurer 1. The Unlicensed Individual also acted in the capacity of an insurance agent in the email of November 16, 2021, when the Unlicensed Individual stated to the Complainant’s Spouse, “Yes, please email the forms to me and I will get them looked after for you. I know the right [Insurer 1] people to send them to on your behalf”, thereby transmitting an application for insurance from a potential insured to an insurer.

In addition, the Unlicensed Individual negotiated with Insurer 1 on behalf of the Complainant’s Spouse, in multiple instances. Specifically, in the Unlicensed Individual’s email dated January 4, 2022, when the Unlicensed Individual indicated to the Complainant that they were just waiting on a few more details from Insurer 1 and that Insurer 1 was working on a solution to provide the Complainant’s Spouse with life insurance. The Council also relied on the information provided in the December 22, 2021, Correspondence which provided that the Unlicensed Individual attempted to obtain an exception to have the Complainant’s Spouse’s life insurance policy accepted by Insurer 1. It is clear from the evidence provided that the Unlicensed Individual acted in the capacity of an insurance agent without holding a valid and subsisting certificate of authority to do so.

The Agency did not provide evidence that it took all reasonable efforts to avoid employing an individual who acted in the capacity of an insurance agent, while that individual did not hold a valid and subsisting certificate of authority to do so. Although, the DR was copied into most of the email correspondences between the Unlicensed Individual and the Complainant and the Complainant’s Spouse, the DR was not mentioned as the insurance advisor, until issues arose with the information being provided by the Unlicensed Individual. Whilst the Council accepts that it may not have been the intention of the Unlicensed Individual to act in the capacity of an insurance agent while not holding a valid certificate of authority, the Unlicensed Individual performed the duties of an insurance agent as contemplated in s. 1(bb) of the Act, therefore the Agency employed an individual who acted as an insurance agent, when that individual did not hold a valid and subsisting certificate of authority to do so.

It is the responsibility of the Agency to ensure that all individuals who provide insurance related advice to their clients hold a valid certificate of authority. As such, the Council finds the Agency guilty of violating s. 452(3) of

the Act, and subsequently violating s. 480(1)(b) of the Act as alleged.

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 the amount of \$1,000.00 against the Agency. In light of all the circumstances, the Council is of the view that insurance business undertaken by individuals who do not hold certificates of authority to do so is not in the best interest of the public. Insurance consumers rely on the advice of insurance intermediaries to obtain appropriate insurance products. When individuals who do not hold a valid certificate of authority provide insurance advice to consumers, those consumers may be left with inadequate insurance coverage or no insurance coverage, based on the advice provided. As such, the Council orders a civil penalty in the amount of \$1,000.00 be levied against the Agency.

The civil penalty of \$1,000.00 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.

Date: March 22, 2023

[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*