

ALBERTA INSURANCE COUNCIL  
(the “AIC”)

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

And

Michael Moller  
(Designated Representative (“DR”))

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

This case involved alleged violations of s. 10(2)(c) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001 (the “Regulation”). Specifically, it is alleged that the DR did not have policies, procedures and supervisory processes in place to ensure individuals representing the business as insurance agents held valid and subsisting certificates of authority to do so. In so doing, it is alleged that the DR failed to properly manage and supervise the business of the Agency, including the employees, and subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated November 14, 2023 (the “Report”). The Report was forwarded to the DR for review, and to allow the DR an opportunity to provide the Council with any further evidence or submissions by way of Addendum.

The DR has held a Life – Agent certificate of authority, periodically, since February 14, 1995. The DR has held an Accident & Sickness (A&S) – Agent certificate of authority, periodically, since February 16, 1995. The DR held Life and A&S – Designated Representative certificates of authority from March 22, 2000 to June 5, 2023.

On May 9, 2023, following the receipt of information from [J.M.] [redacted] (hereinafter the “Agent”), indicating the Agent had been representing [M.B.I.] [redacted] (hereinafter the “Agency”) as an insurance agent without holding a valid and subsisting insurance agent certificate of authority to do so, the AIC opened an investigation into the Agency.

On October 5, 2023, the AIC investigator requested the following information from the DR:

[...]

While investigating allegations against a business, I noticed that you were the Designated Representative of [the Agency] at the time of the events.

For me to continue with my investigation and determine possible breaches of legislation, I would like you to answer the following questions **by no later than October 20, 2023.**

When you were the Designated Representative of [the Agency], did you have policies and procedures concerning the licensing process?

If yes, please provide me with copies of them.

Please provide me with a detailed explanation of how you supervised the licensing process.

[...]

[Emphasis added in original document]

On October 17, 2023, the DR provided the AIC investigator with the following information:

[...]

When I was the Designated Representative for [the Agency] we had policies and procedures for different aspects of [the Agency].

We did not have written office policies & procedures for the licensing process.

Each advisor was responsible for their own licensing process. These included:

Maintaining/ having [sic] a Life Insurance company sponsorship. And enough FYC credits that the sponsoring Life Insurance company required.

Attaining the required Education credits needed to satisfy AIC licensing requirements.

Having E & O coverage again that satisfied AIC licensing requirements.

Applying for the yearly AIC licenses when required on a timely basis so as to not have any lapse in coverage.

And notifying the AIC of any changes to licensing that is necessary. Change of business address, home address, phone, email or fax. Etc.

There were 3 Advisors with [the Agency] when I was the designated representative.

[...]

I did not supervise [the Agent] or [C.R.] [redacted] (hereinafter the "Advisor") when they were renewing their AIC life and disability licenses. They have been renewing their licenses every year for a long time.

We all took on our own responsibilities as far as the policies and procedures involved with the licensing process.

I am aware now that as the designated representative at that time for [the Agency] that there should have been in place policies and procedures for the licensing process.

This was an oversight and error on my part. I do apologise for this.

I certainly can understand why policies and procedures for the licensing process need to be in place.

The current new Designated Representative of [the Agency] ([the Agent]) is incorporating the responsibilities that are required.

Including but not limited to:

Maintaining clear, written office policies and procedures

Ensuring proper management and control of all licensing documents

Ensuring levels of supervision to ensure complete and accurate work

Review insurance transactions promptly

Ensure industry professional competence

Monitor insurance agents whom the AIC has disciplined

Investigate and resolve complaints filed by clients

Notifying AIC when the Designated Representative learns of any misconduct, fraud, deception, theft or unlawful activities by industry professionals or employees

Notify AIC of any changes of information previously given to the AIC

Ensure the name of [the Agency] is indicated in document deals and any advertising.

[...]

On November 30, 2023, the DR provided the AIC investigator with the following additional information:

[...]

Your investigation's conclusion based on the evidence is that I am guilty of failing to implement policies and supervisory processes for licensing. Resulting in an individual acting for the agency without a certificate of authority that the authorized [sic] the individual to represent the agency.

In 2000 I was asked by [the Agent], [...] if I would apply and become the DR (Designated Representative) of [the Agency] for licensing purposes.

[The Agent] was advised by AIC that [the Agent] could not be the DR of two companies simultaneously. The other partner in [the Agency] [the Advisor] was already like [the Agent] a DR for [the Advisor's] own personal Holding company. I accepted as a courtesy/ favour to help a friend and colleague.

There was only 3 of us with [the Agency] I was a junior associate. I was an independent Life and A & S Advisor who shared rent and other office expenses. I was not or have ever been a shareholder of [the Agency]. I have never had a role in the financial operation of [the Agency].

My applications to become the DR of [the Agency] was submitted to AIC for licensing approval.

In March of 2000 my application was approved by AIC to become the DR for [the Agency].

I was unaware of the responsibilities of being a Designated Representative for [the Agency].

In particular the definition of Designated Representative Section 10(2)(c) of the Regulations which states:

“ have [sic] responsibility for the management and supervision of the business “. [sic]

I was not privy to the management/ financial [sic] operation of [the Agency].

I was not aware that I was responsible for the supervision of the business as I had no access to the business.

As I have stated in my initial response in Exhibit # 5, [the Agency] did not have written policies and procedures for the licensing process. Did the 3 of us in the office that are licensed of [the Agency] verbally communicate every year since 2000 in regards to insuring we were all compliant with the AIC procedures and licensing process. Absolutely.

I was not aware that I was responsible for supervising [the Agent] and [the Advisor] when they were renewing their AIC Life and Disability licenses. I believed we were all independent Insurance advisors and were responsible for our own licenses.

It was discovered in May, 2023 that one of the 2 principals with [the Agency] ([the Agent]) has been conducting business under [the Agency] without the proper certificate of authority.

I am aware now that as the DR at that time, [the Agency] should have had written policies and procedures in place for the licensing process.

This was an oversight and error on my part. I am sorry and apologise. I did not know that [the Agent] did not have the proper certificate of authority to carry on insurance activities under [the Agency].

When it came to light that a DR needs to be able to “ have [sic] the responsibility for the management and supervision of the business” I removed myself immediately as the DR of [the Agency].

I am not able to perform that part of the DR requirements. As I do not have access to the Business Operations of [the Agency].

[The Agent] ( President ) [sic] of [the Agency] has applied to AIC and has been approved as the new DR. Under [the Agent's] direction [the Agency] currently has written policies and procedures in place for licensing.

[...]

### **Discussion**

The Council contemplated s. 10(2)(c) of the Regulation, which provides that “*A designated representative of a business must [...] (c) have responsibility for the management and supervision of the business*” (emphasis added). This offence is strict liability in nature. Under a strict liability offence, the AIC has the onus to prove that the DR failed to properly manage and supervise the business. Once this occurs, the onus then shifts to the DR to establish a due diligence defence. The DR must prove that all reasonable means were taken to avoid making the offence. There is no requirement on the AIC to prove the DR's intent.

In consideration of the evidence before it, the Council is satisfied that the DR failed to properly manage

and supervise the business by failing to have policies and procedures and supervisory processes in place to prevent individuals without a valid and subsisting certificate of authority authorizing them to represent the Agency from representing the Agency. The Council considered the DR's November 30, 2023 explanation which stated,

*"In 2000 I was asked by [the Agent][...] if I would apply and become the DR [...] of [the Agency] for licensing purposes. [...]. I accepted as a courtesy/ favour [sic] to help a friend and colleague. [...]. I was not aware that I was responsible for the supervision of the business as I had no access to the business. [...]. I was not aware that I was responsible for supervising [the Agent] and [the Advisor] then they were renewing their IAC Life and Disability licenses."*

However, it was the DR's responsibility to understand the responsibilities placed upon him, prior to becoming the designated representative for the Agency. Therefore, the DR has not met the burden of proof to establish a due diligence defence. As such, the Council finds the DR guilty on three (3) counts of violating s. 10(2)(c) of the Regulation for the years of 2021, 2022, and 2023, and has subsequently violated s. 480(1)(b) of the Act.

In terms of the applicable sanction, the Council has the discretion to levy a civil penalty in an amount up to \$1,000.00, per demonstrate offence, pursuant to s. 36.1(1)(b) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001. In consideration of the length of time the DR was responsible for and failed to properly manage and supervise the business, the Council orders that a civil penalty in the amount of \$1,000.00, per demonstrated offence, for a total civil penalty of \$3,000.00, be levied against the DR.

The civil penalty of \$3,000.00 must be paid within thirty (30) days of the mailing of the 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 DR 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.

Dated: January 31, 2024

[Original Signed By]  
Usman Mahmood, Vice-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*