

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 Myrbel Salvador  
(the "Agent")

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

This case involves allegations pursuant to s. 480(1)(a) of the Act. Specifically, it is alleged that the Agent, on sixteen (16) occasions, intentionally provided false or misleading information to insurers and insureds, failed to disclose material information, misled the insurer through false statements, and failed to conduct adequate fact-finding and assessments of the client's insurance needs. In so doing, it is alleged that the Agent is guilty of misrepresentation, fraud, deceit, untrustworthiness, or dishonesty, as contemplated by s. 480(1)(a) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated December 4, 2023 (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. In arriving at its conclusion, the Council carefully reviewed all evidence presented.

The Agent is the holder of a General Insurance – Level 2 Agency certificate of authority and has held such, periodically, since January 26, 2018. The Agent was the holder of a General Insurance – Level 1 certificate of authority from May 30, 2013, to January 12, 2018.

This matter arose in response to a complaint received by the AIC, on May 10, 2022, from [A.M.A.A.L.] [redacted] (hereinafter the "Agency"), relating to the conduct of the Agent.

On June 9, 2022, the Agency provided the following records to the AIC investigator:

1. Policy Note: Policy S[redacted]4012, dated September 17, 2021 (hereinafter "Transaction 1");
2. Policy Note: Policy S[redacted]7826, dated January 11, 2022 (hereinafter "Transaction 2");
3. Policy Note: Policy T[redacted]3172, dated January 6, 2022 (hereinafter "Transaction 3");
4. Policy Note: Policy S[redacted]9183, dated February 26, 2022 (hereinafter "Transaction 4");

5. Policy Note: Policy S[redacted]8313, dated January 29, 2022 (hereinafter “Transaction 5”);
6. Policy Note: Policy S[redacted]5262, dated February 11, 2022 (hereinafter “Transaction 6”);
7. Policy Note: Policy S[redacted]8865, dated February 11, 2022 (hereinafter “Transaction 7”);
8. Policy Note: Policy S[redacted]8835, dated February 15, 2022 (hereinafter “Transaction 8”);
9. Policy Note: Policy T[redacted]4690, dated February 15, 2022 (hereinafter “Transaction 9”);
10. Policy Note: Policy T[redacted]4254, dated February 18, 2022 (hereinafter “Transaction 10”);
11. Policy Note: Policy T[redacted]4311, dated February 19, 2022 (hereinafter “Transaction 11”);
12. Policy Note: Policy T[redacted]4651, dated March 3, 2022 (hereinafter “Transaction 12”);
13. Policy Note: Policy T[redacted]4871, dated March 10, 2022 (hereinafter “Transaction 13”);
14. Policy Note: Policy S[redacted]9537, dated March 10, 2022 (hereinafter “Transaction 14”);
15. Policy Note: Policy M[redacted]568, dated March 15, 2022 (hereinafter “Transaction 15”); and
16. Policy Note: Policy T[redacted]5018, dated March 15, 2022 (hereinafter “Transaction 16”).

The Transaction 1 document provided:

**Sep 17, 2021**

[Insured] called to activate auto for 2008 Land Rover with 1M liability, 500 All Perils, SF 20/27/44  
Declined 2M liability  
Please use, confirmed 12,000/km/year  
completed credit check and came back approved  
confirmed no commercial or business use  
[Insured] will add [partner] as a driver and [partner’s] vehicle as it needs Out of province inspection  
reviewed binding checklist and consent completed  
advised of minimum retained completed  
Confirmed km  
email, membership active  
property active  
sent to imaging documents received(abstract, CEL and license)

The Transaction 2 document provided:

**Jan 11, 2022**

Issue Change

[Insured] called to activate auto policy  
Confirmed ownership only under [insured] name  
credit check already approved  
Confirmed coverages for 2013 Chevrolet for 2M liability, 0 Deductible on DCPD, 500 deductible for both collision  
and comprehensive, SEF 13D/44/20/27  
Confirmed commute use, with 20,000km/year and 2km one way  
[Insured] declared 1 ticket but no suspension  
read binding checklist and consent and disclosure  
email and membership on file  
active property as well  
  
advised of minimum retained premium  
Confirmed no other driver and vehicles to be added in the household

**Risk Qualification and Application Responses:**

## Vehicle Details

**Basic Vehicle Information**

Vehicle #	1
Fixed ID	1
Date Added	01/19/2022
Year	2013
Make	CHEVROLET TRUCK
Model	SILVERADO 1500
Cylinders	8
[...]	
Manually Added Vehicle	
Vehicle Code	584607
HorsePower	326
Fuel Type	G
Engine Type	8
Body Style	1P
Weight (kg)	2454
Licence Plate	Alberta
Jurisdiction	
Multi Vehicle O/R	
Hybrid/Electric	No
Winter Tire	Yes

[...]

Primary Use	Commute
Farm Discount	No
Annual Kms	20000
Annual Business Use %	0
Commuting Kms (one way)	2

[...]

Odometer Reading	
Modification/Customized	No

**After Market Modifications**

Tires	No
Engine	No
Ground Clearance	No
Interior Roll Cage	No

Unrepaired Damage	No
Non Factory Electronics	None
Car Pooling	No
Appraisal	No
Months Operated Outside Canada	0
Will the automobile be rented or leased	No

or used for carrying passengers for compensation or hire, or for carrying

explosives or radioactive material?	
Will the automobile be used for the transport of goods for compensation?	No

[Emphasis added in original document]

The Transaction 3 document provided:

**Jan 6, 2022**

[Insured] called to active TPC  
 Confirmed 25000 limit, 500 deductible, 2M liability, no other liability concern  
 Email on file  
 Active membership declined changes  
 quoted auto and will call back to activate since [insured's] got a limit  
 advised of premium  
 declined completing credit check  
 read consent and disclosure  
 advised minimum retained premium  
 emailed application and advised sign application back  
 did not offer exclusive as it did not qualify

**Risk Qualification and Application Questions:**

Risk Details

[...]

**Risk Selection**

Risk Type	Tenant
Package Type	Comprehensive (TPC)
Number of Families	1
How is the location occupied?	Primary Residence

Is there any unrepaired damage?	No
Has there been prior damage from sewer back-up, mold, or illegal activity (ie. Marijuana Operation)?	No

CEL on file	No
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**Additional Risk Details**

Do you operate a business at this location?	No
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**Liability Questions**

Do you have any aggressive pets?	No
Are there additional locations requiring liability extensions due to your ownership, use, or occupancy?	No
Do you want to purchase Umbrella coverage?	No
Do you own, rent, or lease any land used for farming? not.	No, I do

[Emphasis added in original document]

The Transaction 4 document provided:

**Feb 26, 2022**

[Insured] called to activate auto policy  
 Confirmed ownership under [insured] name  
 Confirmed 2014 Kia with 10,000km/year pleasure use, no commercial or business use

email added  
 declined membership  
 completed credit check and came back approved don [sic] both financing and select discount

Confirmed coverages: 2M liability 0 DCPD deductible and All perils deductible of 500, SEF 20/27/44

2 drivers in the household

Unlisted is [partner] has [partner's] own insurance and vehicle

declined property quote

Advised of 5% financing fee and 2 months worth of a downpayment

read binding checklist

read consent and disclosure

advised of minimum retained premium

received copies of abstract and shows 1 ticket and 1 claim from BC, sent to imaging

[Emphasis added in original document]

#### The Transaction 5 document provided:

##### **Jan 29, 2022**

[Insured] called to activate auto policy for 2014 Dodge

Confirmed ownership of 2014 Dodge

Confirmed commute use, with 10,000km/year and 13km one way, confirmed no commercial or business use

Confirmed 1M liability, 0 DCPD deductible, Declined 2M liability, collision and comprehensive

Credit check already completed by quoting agent, approve don [sic] monthly but not on select

Did not offer monthly as previously cancelled for non payment

received letter from [insured] that [insured] does bot [sic] owe any money, sent to imaging

Declared no tickets and suspension

Confirmed 2 drivers in the household

Unlisted driver is partner who has [partner's] own insurance elsewhere

Offered membership and property but declined activating today

read binding checklist and consent , [sic] advised of minimum retained premium

email added

emailed application and requested signature back with copy of registration

[Emphasis added in original document]

#### The Transaction 6 document provided:

##### **Feb 11, 2022**

Issue Change

[Insured] called to reduce coverages on [insured's] 2017 Mazda

Confirmed 1M liability, declined 2M liability, collision and comprehensive

[Insured] also confirmed car is paid for

1 driver in the household

no unlisted driver

Confirmed pleasure use with 5000km/year

[Insured] is not working at the moment and doe [sic] sot [sic] drive the vehicle

email on file

declined property and membership

advised of premium effective March 15

declined to do credit check

[Emphasis added in original document]

#### The Transaction 7 document provided:

##### **Feb 11, 2022**

[Insured] called to activate auto policy

Confirmed Bill of sale only under [insured's] name

Confirmed insuring 2015 Buick [redacted]

Confirmed commute use. with [sic] 10,000km/year and 1 km one way

Confirmed coverages 1M liability., [sic] 0 deductible DCPD and 500 deductible for comprehensive  
 Declined 2M liability  
 Completed credit check and came back declined  
 read binding checklist and advised of minimum retained premium if cancelled within the next 30 days and short rate  
 cancellation  
 Also starter membership  
 when trying to collect premium [insured] advised [insured] can't pay by card but will call Wed and be in the branch  
 to pay  
 email added  
 [Emphasis added in original document]

The Transaction 8 document provided:

**Feb 15, 2022**

Spoke on phone to [insured]

Email already on file and verified

Membership on file.

Did not offer credit check as already on file.

Client does not qualify for MPD, offered property quote and was not interested.

Offered life insurance, client did not want

Drivers in house hold=1

No unlisted drivers in household [partner] does not drive and has no license

declared no tickets/suspension, no balance owing as per cancelled policy

Adding the following Vehicle: 2009 Buick [redacted] confirmed ownership

Client accepted: 1M liability, does not qualify for collision and comprehensive

Client declined: 2 Million Liability as did not want to pay extra premium.

Vehicle will be used for pleasure use, annual kms: 10,000 as [redacted] works from home

read consent and disclosure

advised of minimum retained premium

[Emphasis added in original document]

The Transaction 9 document provided:

Line of Business/Policy Number	Transaction Date	Time	Summary of Concerns
Property T[redacted]4690	15-Feb-22		1. Customer had an existing property insurance policy and required a substitution from tenant to homeowner. Advisor activated a new policy inappropriately - advisors are paid commission on new policies only.

[Emphasis added in original document]

The Transaction 10 document provided:

**Feb 18, 2022**

[Insured] called to activate TPC for 25,000 limit, 500 deductible, 2M liability. no [sic] other liability concern, [insured] is with a roommate and will have [redacted] own coverages

Confirmed no prior coverages and no claims

email on file

active membership (will be paying on renewal)

Did not offer exclusive as it did not qualify

Also updated auto for changed of [sic] address

credit check completed online by [redacted] and approved on financing but not select discount

read consent and disclosure  
advised of minimum retained premium

paid in full

emailed copy of application and COI

### **Responses to Risk Qualification and Application Questions**

[...]

#### **Risk Selection**

Risk Type	Tenant
Package Type	Comprehensive (TPC)
Number of Families	1
How is the location occupied?	Primary Residence

Is there any unrepaired damage? No

Has there been prior damage from sewer  
back-up, mold, or illegal activity  
(ie. Marijuana Operation)? No

CEL on file No

#### **Additional Risk Details**

Do you operate a business at this location? No

#### **Liability Questions**

Do you have any aggressive pets? No

Are there additional locations requiring liability extensions due to your ownership, use, or occupancy? No

Do you want to purchase Umbrella coverage? No

Do you own, rent, or lease any land used for farming?  
not. No, I do

[Emphasis added in original document]

The Transaction 11 document provided:

**Feb 19, 2022**

[Insured] called to activate webquote started

Completed and activated TPC for 25,000 limit, 500 deductible, 2M liability, no other liability concern

Confirmed 1 family living in this location

No previous coverage and no claims

completed credit check and came back declined

email added

activated membership

offered auto quote but declined this time

Did not offer exclusive as per limit does not qualify

read consent and disclosure and advised of minimum retained premium

**Risk Qualification and Application Questions:**

**Additional Risk Details**

Do you operate a business at this location? No

**Liability Questions**

Do you have any aggressive pets? No

Are there additional locations requiring liability extensions due to your ownership, use, or occupancy? No

Do you want to purchase Umbrella coverage? No

Do you own, rent, or lease any land used for farming? No, I do not.

[Emphasis added in original document]

The Transaction 12 document provided:

**Mar 3, 2022**

[Insured] called to activate RV for 2011 Windriver

Confirmed value at 20,000 limit, 500 deductible and 1M liability, no other liability concern, no claims and continuous insurance with [redacted]

Confirmed ownership under [insured's] name

Read consent and disclosure

credit check already completed when quoted

advised of minimum retained premium

emailed copy of application

email added, active membership

quoted auto but declined as its double what [insured] paying right now  
[Emphasis added in original document]

The Transaction 13 document provided:

**Mar 10, 2022**

[redacted] called to activate properties

1. Confirmed HOC for [redacted] (primary)

Completed IClarify : [sic] valuation at 318,000 limit, 1000 deductible, 2M liability, no other liability concern, declined exclusive coverages, no home based business, [redacted] works from home [redacted]

continuous insurance with [redacted] and no claims

Pulled HITS

2. Coconfirmed [sic] HOC (secondary)[redacted]  
 Completed IClarify at 205,000 limit, 1000 deductible, 2M liability, they are in this location every weekend

Declined exclusive coverages

completed credit check and came back approved on financing but not on discount  
 email added  
 activated membership  
 activated auto

[Insured] authorized [spouse] to access and make changes on [insured's] behalf

Read consent and disclosure  
 advised of minimum retained premium

**Responses to Risk Qualification and Application Questions:**

**Liability Questions**

Do you have any aggressive pets?	No
Are there additional locations requiring liability extensions due to your ownership, use, or occupancy?	No
Do you want to purchase Umbrella coverage?	No
Do you own, rent, or lease any land used for farming?	No I do
not.	

**Additional Risk Details**

Do you operate a business at this location?	No
Has the insured been informed an inspection may be carried out on this dwelling?	Yes
Is your dwelling currently under construction or undergoing major renovations?	No
[Emphasis added in original document]	

The Transaction 14 document provided:

**Mar 10, 2022**

Issue Change

[Insured] called to activate insurance for 2 autos

1. 2019 Dodge Caravan with 2M liability, 0 DED on DCPD, All Perils deductible of 500, SEF 44/20/27/23A  
 Pleasure use as [redacted] works from Home [...] 20,000 km/year

2. 2007 Aveo with 2M liability, 0DED DCPD, Declined collision and comprehensive, pleasure use with 500km/year

Confirmed 2 drivers in the household  
 No unlisted driver

Declared no tickets and suspensions for both drivers  
 Pulled autoplus

Confirmed driver assignment is correct  
 Completed credit consent for [insured] and came back approved on financing and not on select discount

email added  
 active membership  
 activated property as well

Read consent and disclosure  
advised of minimum retained premium

Reviewed all discounts

**Claim Entry:**

**Claim Details**

Date of Loss	11/10/2015
Claim #	[redacted]
Data Source	Autoplus
Loss Cause	No Other Category
Driver	[redacted]
Attributable To	[redacted]
Vehicle	2019 DODGE-RAM TRUCK GRAND CARAVAN G Private Passenger - Auto
Comments	

**Loss Type**

At Fault	No
Liability	
LIAB Incurred	
DCPD	
DCPD Incurred	
Physical	Yes
Damage	
PD Incurred	Yes
Ignore	No
SEF 39	
Applied	

**Winter Tires:**

[...]	
Date Added	03/10/2022
Year	2019
Make	DODGE-RAM TRUCK
Model	GRAND CARAVAN G
Cylinders	6
[...]	
Manually Added Vehicle	
Vehicle Code	266206
HorsePower	283
Fuel Type	G
Engine Type	6
Body Style	SV
Weight (kg)	1960
Licence Plate	Alberta
Jurisdiction	
Multi Vehicle O/R	
Hybrid/Electric	No
Winter Tire	Yes
[Emphasis added in original document]	

The Transaction 15 document provided:

**Mar 15, 2022**

Spoke on the phone to: [insured]

Email already on file and verified  
 Membership on file.  
 Declined credit check  
 Client does not qualify for MPD, offered property quote and was not interested.  
 Offered to review policy with client, client declined at this time.

Drivers in house hold=3  
 Unlisted driver in household because: [child] has learner will be added next week when [child] passed road tests  
 Confirmed driver assignments are correct

Confirmed adding 2014 Jeep with 1M liability 0 DCPD deductible, 500 deductible for collision and 250 deductible for comprehensive, Pleasure [sic] use with 5000 km year

Declined 2M liability

Confirmed no changes to coverage on existing vehicles.

Confirmed vehicle usage is correct on file for all other vehicles.

confirmed premium change

**Responses to Vehicle Risk Questions not asked:**

4 Private Passenger – Auto 2014 JEEP COMPASS NORTH 4

**Basic Vehicle Information**

Vehicle #	4
Fixed ID	6
Date Added	03/15/2022
Year	2014
Make	JEEP
Model	COMPASS NORTH 4
Cylinders	4
[...]	
Manually Added Vehicle	
Vehicle Code	723701
HorsePower	172
Fuel Type	G
Engine Type	4
Body Style	SP
Weight (kg)	1498
License Plate Jurisdiction	Alberta
Multi Vehicle O/R	
Hybrid/Electric	No
Winter Tire	Yes
[...]	
Primary Use	Pleasure
Farm Discount	No
Annual Kms	5000
Annual Business Use %	0
Commuting Kms (one way)	

**Additional Vehicle Details**

List Price New (MSRP)	26875
Purchase Price	
Ownership	Financed

Purchase Date	03/15/2022
Purchased As	Used
[...]	
Odometer Reading	
Modification/Customized	No
<b>After Market Modifications</b>	
Tires	No
Engine	No
Ground Clearance	No
Interior Roll Cage	No
Unrepaired Damage	No
Non Factory Electronics	None
Car Pooling	No
Appraisal	No
Months Operated Outside Canada	0
Will the automobile be rented or leased or used for carrying passengers for compensation or hire, or for carrying explosive or radioactive material?	No
Will the automobile be used for the transportation of goods for compensation?	No
[Emphasis added in original document]	

The Transaction 16 document provided:

**Mar 15, 2022**

[Insured] called to get a quote for [insured's] place [insured's] renting, [insured] currently insured with [redacted] on [redacted] primary and will check the rates first to see if [insured] can just add it instead

**Responses to risk Qualification and Application Questions:**

**Liability Questions**

Do you have any aggressive pets?	No
Are there additional locations requiring liability extensions due to your ownership, use, or occupancy?	No
Do you want to purchase Umbrella coverage?	No
Do you own, rent, or lease any land used for farming?	No, I do
not.	

**Basic Risk Information**

[...]

**Risk Selection**

Risk Type	Tenant
Package Type	Comprehensive (TPC)
Number of Families	1
How is the location occupied?	Primary Residence

Is there any unrepaired damage?	No
Has there been prior damage from sewer back-up, mold, or illegal activity (ie. Marijuana Operation)?	No
[...]	

**Additional Risk Details**

Do you operate a business at this location? No

Through the AIC investigator, the following information was provided as it relates to recorded telephone calls respecting Transactions 1 through 16:

**Transaction 1**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agency QRPs require the Agents to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- In the recorded conversation, the Agent gave the insured a "winter tires" discount without inquiring if the insured had winter tires on the vehicle.
- The Agent should have confirmed with the insured if winter tires were installed on the vehicle.
- The Agent admits to the above points.

**Transaction 2**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agent did not read the application verbatim as per the Agency QRPs.
- The Agent wrote that she obtained consent and disclosure.
- The Agent did not obtain consent from the policyholder.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- In the recorded conversation, the Agent gave the insured a "winter tires" discount without inquiring if the insured had winter tires on the vehicle.
- The Agent should have confirmed with the insured if [insured] had winter tires on the vehicle.
- The Agent responded to some application questions without asking the insured.
- The Agent answered the questions below without discussing them with the insured as per the Agency QRPs.
- The Agent did not ask the insured the following questions:
  - when was the vehicle purchased? Regardless, the Agent completed the field with "01/06/2022" without confirming with the insured if this information was correct and
  - what was the license plate jurisdiction?
- The Agent admits to the above points

**Transaction 3**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agent did not read the application verbatim from the insured.
- The Agent wrote that she obtained consent and disclosure.
- The Agent did not obtain consent from the insured as she wrote on the file.
- The Agency QRP's require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agent responded to some application questions without asking the insured.
- The Agent answered the questions below without discussing them with the insured as per the Agency QRPS:
  - has any insurer cancelled, declined, or refused to renew or issue insurance to the applicant?
  - how many property claims have you made in the last five (5) years? and
  - home-based business, building type, alarm system)? [sic]
- The Agent admits to the above points.

**Transaction 4**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agent impersonated the insured at the [redacted] website and ordered the insured's abstract and claims' experience letter without authorization from the party insured.

- The impersonation is recorded in a screen capture and admitted by the Agent.
- The Agent also altered documents received from the [redacted] by removing the “To” field from the documents sent by [redacted] to her before submitting them to the insurer.
- The Agent wrote that a \$2,000,000.00 liability was offered and declined by the insured.
- The Agent did not offer a higher liability amount to the insured.
- The Agent wrote that a quote for property insurance was offered.
- The Agent did not offer the insured a quote for property insurance.
- An inspection outside the province revealed that the insured’s vehicle did not pass the test.
- The Agent failed to communicate to the insurer that the insured’s vehicle had failed an out-of-province inspection.
- The Agency guidance requires the Agent to comprehensively review the policy, discuss it, and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agent admits to the above points.

**Transaction 5**

- The Agent’s notes on file do not match the recorded call with the insured.
- The Agent did not read the application verbatim before getting consent from the policyholder.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agent wrote that a \$2,000,000.00 liability was offered and declined by the insured.
- The Agent did not offer a higher liability amount to the insured.
- The Agent noted on the file that she had offered a quote for property coverage.
- The Agent did not offer the insured a quote for property coverage.
- The Agent admits to the above points.

**Transaction 6**

- The Agent’s notes on file do not match the recorded call with the insured.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agent noted on the file that she had offered property coverage and [Agency] membership, but the insured declined it.
- The Agent did not offer the insured property coverage and [Agency] membership. She mentioned the possible benefits of both services, but the same was not offered to the insured, as noted on the insured’s file.
- The Agent admits to the above points.

**Transaction 7**

- The Agent’s notes on file do not match the recorded call with the insured.
- The Agent did not read the application before getting consent from the policyholder.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agency requests that Agents verify vehicle ownership before policy issuance.
- The Agent failed to confirm ownership of the vehicle.
- The Agent asked if the insured vehicle “came with all-weather or winter and summer tires.”
- The insured responded, “I think they are all-weather right now.”
- The Agent gave the insured a winter tires discount.
- The Agent admits to the above points.

**Transaction 8**

- The Agent’s notes on file do not match the recorded call with the insured.
- The insured was on a monthly payment program. [The Insured’s] policy had lapsed for lack of payment.

- The Agent re-wrote a cancelled policy.
- The Agent must confirm the applicant's personal information on file with the insured for a new policy in accordance with Agency QRPs.
- The Agent failed to confirm the insured's personal information on file.
- The Agent must read the complete application and obtain the insured's consent according to Agency guidelines.
- The Agent did not read the application before getting consent from the policyholder.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- In the file notes, the Agent wrote that she offered a \$2,000,000.00 liability to the insured. In the recorded conversation, the Agent provided only a \$1,000,000.00 liability with and without a deductible.
- The higher liability coverage was not communicated to the insured.
- Also, in the file notes, the Agent wrote, "offered property quote and was not interested."
- The Agent did not offer a property quote to the insured.
- The Agent informed the insured of the benefits of bundling services but did not offer [the insured] the property quote as she wrote in the file notes.
- The Agent admits to the above points.

**Transaction 9**

- The DR stated that under their property policies, a new policy is written when no existing policy exists or if a new location is in a name different from the current policy.
- The insured called to request a substitution between tenant and homeowner insurance.
- The Agency pays commission on new policies only.
- The Agent activated a new policy inappropriately.
- By failing to substitute policies, the insured incurred an annual premium.
- The Agent admits to the above points.

**Transaction 10**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agent only read part of the application before getting consent from the insured.
- The Agent responded "NO" to the "company's risk qualification and application" questions without asking the insured.
- The Agent answered the questions below without discussing them with the insured as per the Agency QRPs.
- Some of the questions are:
  - do you have any aggressive pets?
  - are any additional locations requiring liability extensions due to your ownership, use or occupancy?
  - do you want to purchase an umbrella coverage?
  - do you own, rent, or lease any land used for farming?
  - do you operate a business at this location?
- The Agent admits to the above points.

**Transaction 11**

- The Agent's notes on file do not match the recorded call with the insured.
- In a recorded conversation, the Agent suggested that the insured contact the Agency at renewal for a vehicle quote, which may be less expensive than the current insurer's auto policy.
- On the file notes, the Agent wrote, "Offered auto quote but declined this time."
- The Agent did not offer a quote for the insured vehicle, and the insured did not decline the offer.
- The Agent answered "NO" to the "liability questions" without discussing them with the insured as per the Agency QRPs.
- Some of the questions are:
  - do you have any aggressive pets?
  - are any additional locations requiring liability extensions due to your ownership, use or occupancy?
  - do you want to purchase umbrella coverage?
  - do you own, rent, or lease any land used for farming?

- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred.
- The Agent admits to the above points.

**Transaction 12**

- The Agent's notes on file do not match the recorded call with the insured.
- The file notes read that the insured called.
- The recording shows that the Agent called the insured to inform [the insured] that [the insured's] premium had been reduced.
- The Agent must read the complete application and obtain the insured's consent according to Agency guidelines.
- The Agent did not read the application before getting consent from the insured.
- The Agent wrote that she "read consent and disclosure."
- The recorded phone call indicates she only read part of the consent form to the insured.
- The Agent wrote, "quoted auto but declined as it doubles what [the insured's] paying right now."
- The Agent did not provide the quoted information in the phone recording.
- The Agent wrote, "Confirm ownership under [the insured's] name."
- The insured admits forgetting to check if [the insured's] [partner] is also an owner and informs the Agent that [the insured] will check once [the insured] returns home.
- The Agent admits to the above points.

**Transaction 13**

- The Agent's notes on file do not match the recorded call with the insured.
- The Agency QRPs require the Agent to comprehensively review the policy, discuss it and offer all eligible coverages and endorsements.
- The Agent failed to do so, and no review or discussion occurred
- The Agent replied "NO" to the "risk qualification and application" questions without obtaining information from the insured.
- The Agent answered the questions below without asking the insured:
  - entered "natural gas" as furnace type,
  - entered "NO" to prior damage,
  - entered "NO" to are you growing cannabis?
- The Agent marked "YES" to the question, "Has the insured been informed an inspection may be carried out in this dwelling?"
- The Agent did not inform the insured about the inspection.
- The Agent admits to the above points.

**Transaction 14**

- The Agent did not explain to the insured what "insurable interest" means.
- The Agent failed to explain to the insured the implications of a joint policy.
- The Agent wrote a joint policy combining two (2) vehicles owned by two (2) separate parties.
- The Agent obtained an "AutoPlus" report that indicated the insured had a loss classified as "at fault."
- The Agent marked "NO" under the "at-fault" when instead she should have marked "YES."
- The Agent did not confirm with the insured whether the accident was or was not at fault.
- The Agent gave the insured a "winter tires" discount without inquiring if the insured had winter tires on the vehicle.
- The Agent should have confirmed with the insured it winter tires were installed on the vehicle
- The Agent admits to the above points.

**Transaction 15**

- The Agent's notes on file do not match the recorded call with the insured.
- Some discrepancies were that the Agent noted that:
  - she had offered a \$2,000,000 liability.

- she had offered to quote on a property.
- she had confirmed the annual kilometres of vehicles.
- The Agent did not offer a higher liability amount as she wrote on the file.
- The Agent did not offer to quote on a property as she wrote on the file.
- The Agent under “Annual Kms” wrote 5,000 KMs without asking or confirming with the insured.
- The Agent admits to the above points.

**Transaction 16**

- The Agent’s notes on file do not match the recorded call with the insured.
- The Agent did not read the application before getting consent from the insured.
- The Agent omitted relevant information about the risk from the application and policy notation.
- The Agent responded “NO” to the “liability questions” without asking the insured.
- Some of the questions are:
  - do you have any aggressive pets?
  - do you want to purchase umbrella coverage?
  - do you own, rent, or lease any land used for farming?
- The Agent admits to the above points.

On April 14, 2023, the Agent provided the AIC investigator the following information:

[...]

I am fully aware that audits are conducted by [the Agency] on a regular basis. If my memory serves me right, I had one email about my audit to which I responded truthfully and honestly. I no longer have access to my emails from [the Agency], but the following are the audit concerns that I know of.

1. Policy canceled under husband’s name and rewritten by wife in her name.
2. Client reports (LOE and MVR) from [redacted]. The requested reports were sent directly to my work email as per the insured’s request and consent. My client Is gave [sic] verbal consent for me to order online their [redacted] LOE and MVR to issue policy, due to a gap in technological skills/knowledge.

These are the only issues/concerns I remember about the audit. I have complied with [the Agency] suggestions, however, there was no feedback from [the Agency] thereafter. [...]

I was asked in Feb 2022 unsure of the date, but I remember it was on a Tuesday to stop working and go home and will be called back in after either early Friday of that week or Monday the next week. I was really upset as I was not given a reason why I’m not allowed to come to work nor was given a warning for that matter. [...] I tried reaching out and requested an explanation, however, I was told that they do not have to disclose anything to me. [...] If there were truly issues and concerns after the audit, I believe I deserve to know the audit results and what I needed to do to fix them and be given a warning. [The Agency] and its management should have considered fixing the issues before it gets out of the organization. If it was concerning, it should have been brought to my attention immediately to address all concerns. [...]

On August 18, 2023, the Agency provided the AIC investigator with the following information:

[...] I must preface this with stating it is difficult to quantify the overall impact of Myrbel’s errors as many involved the omission of or incorrect rating information, most often to the Company’s detriment. Following Myrbel’s exit, we did not track claims that may have been paid because of her errors, so this is not an all-encompassing view of the magnitude of effort and losses suffered. There is a commission consideration, where commission was paid out at incorrect amounts due to inaccurate premium, and on policies that did not qualify. On average, it takes approximately 30mins to conduct a policy audit, plus the length of any call recordings that needed to be reviewed for a specific policy audit.

If we had some more time, I could provide you with more detailed information on the overall financial impact, but we did not capture this in the audits themselves (going forward, we will be including this for easy reference). [...]

Policies Audits	106
Total Errors/Corrections Required	58

Error Rate	55%
Total with verified premium impact	12
Policies written and did not meet underwriting criteria	5

[...]

On October 26, 2023, the Agency provided the following information to the AIC investigator:

[...]

For the attached document in your October 12<sup>th</sup> email, regarding the claim from 11/10/2015, this is a ratable PPA claim on Automobile policy [Transaction 14] and is pointed to the vehicle that was insured – 2019 Dodge Caravan – as listed in #1 in the note. The model entry displaying ‘Dodge-Ram’ which is based off a VIN look-up and displays a full vehicle description ‘2019 Dodge-Ram Truck **Grand Caravan**’. This claim populated on the autoplus record ordered by Myrbel, and the concern is her failure to discuss with the claim with the [sic] insured at all and confirm fault.

Regarding the October 11<sup>th</sup> email and questions:

Consent: Advisors are expected to read the application consent and the credit consent verbatim when transacting over the phone. There are separate consents for each line of business. Myrbel was not reading consents in their entirety. These consents display within our system during the policy activation and the advisor responds yes or no that these have been reviewed with the insured.

Our system prompts the advisor to ask the insured qualification and risk assessment questions. Myrbel was answering these questions without actually asking the insured. Many of these questions populate the required information on the Standard Application Form which is generated out of the system based on the information entered by the advisor.

Property policies: if there is an existing property policy for an insured and when they are insuring a new property in the same names, we do not write a policy, but do a policy change to change the risk to the new location. A new property policy is only written when there is no existing policy in place, or if a new location is in names that are different than the current policy.

[The Agency] expectations: I have attached a copy of our quality review criteria for policy changes as well as our call quality review criteria for our new business expectations. These are job aids prepared for the front-line to ensure they understand expectations and how their performance is evaluated. We conduct monthly audits of transactions scoring against these criteria. [...]

[Emphasis added in original document]

In the same email dated October 26, 2023, the Agency provided the “Insurance Agency Quality Review Program”, which provided in part:

**Auto Service QRP**

**Account/policy contact information (same on all forms):**

**Who the advisor interacted with and how (in person or over the phone).**

- Advisor should note the name of who they spoke to and how. If the interaction was not with the named insured, the note should indicate that they are an authorized person. [...]

**Collection of email.**

- Email address is in [...] account and policy and If [sic] not, note needs to explain why not. [...]

**Collection of membership.**

- Membership is in [...] policy. If not, note needs to explain why not.
- If membership has expired, advisor should offer to renew. [...]

**Policy Transaction Review:**

Ask all necessary questions to obtain accurate information regarding the insured and the risk.

**Confirmation of number of drivers in household.**

- This question should be asked in every interaction. Note: if not class 5 license. If there are more vehicles than drivers, advisor should confirm all licensed drivers in household. [...]

**Drivers assigned correctly.**

- Driver assignment should be reviewed in every interaction. Confirm and update principal driver of each vehicle on the policy. [The Agency] business rules about driver assignment are adhered to. Note should include details when there is an occasional operator. [...]

**Confirmation of vehicle use.**

- This question should be asked in every interaction. For add/substitution of vehicle the use of that vehicle needs to be noted. [...]

**Insurance and claims history entered correctly.**

Confirm insurance and claims history by reviewing Autoplus and/or CEL. [The Agency] business rules about claims assignment are adhered to. Reassign claims, as necessary. Out of province Claims Experience Letter is added if applicable. When there is a vehicle added, confirm claims were assigned on the correct vehicles. [...]

**Multi-policy discount.**

- Ensure multi policy discount is added, if applicable.
- If single line, offer quote for other line of business, if not asked within last 30 days. [...]

**Related Policy Review.**

- If auto policy change affects related policy (example address change), the property policy is also updated. [...]

**Credit check/select customer discount.**

- If there is no prior credit check on the policy, advisor must ask for consent for a credit check, even if the policy is liability only. If prior credit check/decline on policy, question will be N/A. [...]

**Coverage Review:**

All eligible coverage should be offered and noted as offered. Note should indicate if declined and why. All coverage gaps and exclusions should be discussed and noted.

**Confirmation of liability coverage for each vehicle.**

- This question should be asked in every interaction. Declined coverage should be noted with a reason why it was declined. If liability limit of less than \$1 million is added a note explaining that it was discussed, offered, declined and why. All vehicles in the household need to be the same liability limits. [...]

**Confirmation of Section C coverage for each vehicle.**

- This question should be asked in every interaction. Declined coverage should be noted with a reason why it was declined. Each endorsement should be noted that it was discussed, offered, declined and why. For vehicle substitutions, review coverage again. Don't say "same coverage." Don't say "full coverage." [...]

**Property Service QRP****Account/policy contact information (same on all forms):****Who the advisor interacted with and how (in person or over the phone).**

- Advisor should note the name of who they spoke to and how. If the interaction was not with the named insured, the note should indicate that they are an authorized person. [...]

**Collection of email.**

- Email address is in [...] account and policy. If not, note needs to explain why not. [...]

**Collection of membership.**

- Membership is in [...] policy. If not, note needs to explain why not.
- If membership is expired, advisor should offer to renew. [...]

**Policy Transaction Review:**

Ask all necessary questions to obtain accurate information regarding the insured and the risk.

**Confirmation of iClarify details if applicable (homeowner).**

- When new location is added, verify that details [...] match iClarify report. Ensure the correct dwelling limit was used. Reference field was used in iClarify tool. [...]

**Confirmation of contents limit, if applicable (condo/tenant).**

- This question should be asked in every interaction. Note should indicate that contents limits was discussed, and increase was declined.
- Confirm with insured that their condo/tenant contents limit is adequate. Advisor can recommend they do an inventory if the insured is unsure. Note details of the conversation. [...]

**Multi-policy discount.**

- Ensure multi policy discount is added, if applicable.
- If single line, offer quote for other line of business. [...]

**Related Policy Review.**

- If property policy change affects related policy (example address change), the auto policy is also updated. [...]

**Credit check/select customer discount.**

- If there is no credit check on the policy, advisor should ask for consent for a credit check. [...]

**Coverage Review:**

All eligible coverage should be offered and noted as offered. Note should indicate if declined and why. All coverage gaps and exclusions should be discussed and noted.

**Confirmation of liability coverage.**

- This question should be asked in every interaction. Declined coverage should be noted with a reason why it was declined. If liability of less than \$1 million is added a note explaining that it was discussed, offered, declined and why. Ensure that liability limit is the same throughout the policy (ex. RV and watercraft). [...]

**Confirmation of Endorsements.**

- This question should be asked in every interaction. Declined coverage should be noted with a reason why it was declined. Each endorsement should be noted that it was discussed, offered, declined and why. If there is a policy limit, note should include that was discussed with the insured (example EWE limit). [...]

**Call Review Evaluation Job Aid****Opening/Verification/Membership:**

**Did advisor provide a warm and friendly greeting?**

[...]

**Did advisor verify caller identity with 3 verification questions?**

[...]

**Did advisor search for an existing account/contact before creating new?**

[...]

**Did advisor inquire about [Agency] membership?**

[...]

**Process and Procedures:**

**Did advisor inform client about Credit Check option for best rate and payment options?**

- Was the client advised that the best rate and the monthly payment options are available with a credit check completed?
- Was the client's permission requested to pull a credit check?
- Was the credit check consent read verbatim from the system? [...]
- Advisor waited for client's response to credit consent before retrieving credit score.

**Was ownership of vehicle(s) confirmed?**

- Advisor asked client who the owner of the vehicle is.
- If there is ownership confusion, advisor asked for a bill of sale.

**Did advisor confirm all questions during the quoting/servicing process?**

- All application and system questions were asked, including the qualification questions and binding checklist.
- [...]
- **Property:** all application and system questions were asked, including iClarify questions and necessary questions required to pull a HITS report.

**Did the advisor identify potential red flags and investigated with open-ended questions?**

- Struggles from client with application and system questions.
- Client confusion surrounding claims, convictions, and suspensions.
- If red flag arose, did advisor utilize measures to limit the risk? IE. No pay plan, liability only, driver's abstract upfront, recommending client attend branch with ID, etc.

**Was an activity added for any future information required?**

- The activity inputted has the correct date.
- The activity inputted has been sent to the correct person (or themselves).

**Were PAD rules explained to client electing for monthly payments?**

- All the following were discussed:
  - 5% fee, down payment equal to 2 months, 10 days notice for change, \$35 NSF fee, Guaranteed funds, non-pay can result in cancellation.
- Consent of these conditions must be obtained.
- If advisor is doing a quote only, N/A is acceptable for this metric.

**Did advisor offer to review all client's insurance portfolio and membership? And make the necessary changes?**

- Advisor noticed upon initial investigation that client had multiple policies [...].
- Offered to review insurance and membership profile with client and make any necessary changes. [...]

**Were all applicable coverages, SEF's, and discounts offered and/or discussed?**

- A thorough review of the policy was completed by the advisor. All eligible automobile coverages were offered or discussed. Discounts were also discussed if eligible, and all pertinent SEF's were discussed at some point during the call.
- **Property:** All applicable endorsements and discounts were offered and discussed. [...]

**Sales Process:****Did the advisor ask for the sale at any point during the call if no objections were raised?**

- Yes, asked for the sale immediately after premium quoted.
- Yes, asked for the sale anytime during the call.
- N/A: Significantly higher quote than disclosed by client, someone other than the named insured calling in, does not own a vehicle, etc.

**If client declined policy did advisor try to overcome objections?**

- Offer different coverage options.
- Ensure all discounts applied.
- Offer a call back at a more convenient time if applicable.
- Check eligibility of monthly payments through credit check.

**If client did not proceed with sale, did advisor ask to follow up?**

- [...]

**Did advisor offer to email quote?**

- [...]
- Advisor might also mention their contact information will be contained within the email.
- If quote was not emailed, why? [...]

**Was a second line of business or product offered?**

- Other than Membership, was another insurance product offered to the client?
- Life and Living Benefits referral also counts as a secondary product.

**Soft Skills:**

[...]

**Closing:**

[...]

**Did advisor add appropriate notes?**

- All important pieces of information gathered in the phone call were noted.
- Essential pieces of the conversation were noted.
- Manager discretion on what constitutes an appropriate note is acceptable.  
[Emphasis added in original document]

On December 6, 2023, the Agent provided the AIC investigator the following documents:

1. An email dated March 29, 2022, from the Agent to the Agency (hereinafter the “March 2022 Email”); and
2. A letter to the AIC dated December 6, 2023 (hereinafter the “December 2023 Letter”).

The March 2022 Email stated:

Thank you for meeting with me today and explaining the result of the investigation.  
[...]

I understand that audits are done to ensure accuracy and compliance with regulations. I firmly believe that [the Agency] always support their employees to adhere to the rules and regulations. I am not questioning the audit, however i [sic] believe that an audit should provide a chance to correct errors before one is suspended unless we are not in compliance with government regulations.  
[...]

The December 2023 Letter stated:

[...]

This is in response to the email received from AIC. I have attached the email I sent to the direct and [redacted] response after I requested an audience with the [Agency’s] HR and Director. [...]

[...] I still remember that day when I was asked to see the director and manager right away while I was busy dealing with a client and that was in the middle of the day (Tuesday). I was not even given the option to finish the work after my client left and said that I had to go see my manager. I sat down in front of the director and my manager smiling. I was even making a joke if I was on some kind of hot seat, but they were both serious and said to pack my things and go home. I was shocked and panicked and asked what the reason was. They advised that they could not disclose anything to me until they had the result. They just said my manager would call me either early that week or first thing of the week following. I still stayed and insisted on giving me an explanation since I could not just go home without knowing that was going on. They are firm though and did not want to disclose anything and just kept on

saying to just go home. I was never given a warning of some sort to at least give me an idea of what was happening. I have never heard from [the Agency] as promised and I am worried as I am blindsided as to what is happening. [...]

Concerning the Audit, I firmly believe that a company should have standards and that any issue that they think is relevant should be addressed promptly and not wait till it gets worse. The fact that I was asked that day to go see my manager right away even if I was in the middle of dealing with a client and did not finish what I was supposed to be completing is a mere example that it is not in compliance with the standard, and that can certainly be used against me. I even explained that I have not completed the notes, but my system started to get disabled, but my manager said it was fine. Over the 9 years with [the Agency], I cannot count the number of times they have modified the way we have to do things, including what should be included and asked from clients. I have only received one Audit in my entire years with [the Agency] excluding this one that I remember. I cannot claim that I am perfect but having corrective measures promptly would have avoided this error. There should at least be a regular audit conducted to avoid replicating the same error. [...]

I understand and acknowledge the severity of the situation and the impact of this on my job description. Moving forward I will take this as a learning experience. [...]

### **Discussion**

In order for the Council to conclude that an agent has committed an offence pursuant to s. 480(1)(a) of the Act, the Report must prove, on the basis of clear and cogent evidence, that it is more likely than not that the Agent committed the act as alleged. The Council is cognizant that findings of guilt under s. 480(1)(a) can dramatically impact an insurance agent's ability to remain in the industry. Therefore, the Council carefully weighs all evidence before it before 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 sixteen (16) counts of fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act when the Agent intentionally provided false or

misleading information to the insurers and insureds, failed to disclose material information, misled the insurer through false statements, and failed to conduct adequate fact-finding and assessments of the client's insurance needs.

The Council was concerned by the multiple inconsistencies between the transaction notes and the AIC provided summaries of the recorded phone calls the Agent had with the clients. Those inconsistencies included:

Transaction	Policy Notes	Recorded Phone Call Summary
1		The Agent gave the insured a "winter tires" discount without inquiring if the insured had winter tires on the vehicle.
2	Read binding checklist and consent and disclosure.  Winter Tire Yes  Purchase Date 01/06/2022  License Plate Jurisdiction Alberta	The Agent did not obtain consent from the policyholder.  The Agent gave the insured a "winter tires" discount without inquiring if the insured has winter tires on the vehicle.  The Agent did not ask the insured the following questions: <ul style="list-style-type: none"> <li>• When was the vehicle purchased? Regardless, the Agent completed the field with "01/06/2022" without confirming with the insured if this information was correct and</li> <li>• What was the license plate jurisdiction?</li> </ul>
3	Read consent and disclosure.	The Agent did not obtain consent from the insured as she wrote on the file.  The Agent answered the questions below without discussing them with the insured: <ul style="list-style-type: none"> <li>• Has any insurer cancelled, declined, or refused to renew or issue insurance to the applicant?</li> <li>• How many property claims have you made in the last five (5) years? And</li> <li>• Home-based business, building type, alarm system)? [sic]</li> </ul>
4	Declined property quote.	The Agent did not offer the insured a quote for property insurance.
5	Declined 2M liability.  Offered membership and property but declined activating today.	The Agent did not offer a higher liability amount to the insured.  The Agent did not offer the insured a quote for property insurance.
8	Client declined: 2 million Liability as did not want to pay extra premium.  Offered property quote and was not interested.	The higher liability coverage was not communicated to the insured.  The Agent did not offer a property quote to the insured.
10	Do you have any aggressive pets? NO	The Agent answered the questions below without discussing them with the insured:

	<p>Are there any additional locations requiring liability extensions due to your ownership, use, or occupancy? NO</p> <p>Do you want to purchase Umbrella coverage? NO</p> <p>Do you own, rent, or lease any land used for farming? No, I do not.</p>	<ul style="list-style-type: none"> <li>• Do you have any aggressive pets?</li> <li>• Are there any additional locations requiring liability extensions due to your ownership, use, or occupancy?</li> <li>• Do you want to purchase Umbrella coverage?</li> <li>• Do you own, rent, or lease and land used for farming?</li> </ul>
11	<p>Offered auto quote but declined this time.</p> <p>Do you have any aggressive pets? NO</p> <p>Are there additional locations requiring liability extensions due to your ownership, use, or occupancy? NO</p> <p>Do you want to purchase Umbrella coverage? NO</p> <p>Do you own, rent, or lease any land used for farming? No, I do not.</p>	<p>The Agent did not offer a quote for the insured vehicle, and the insured did not decline the offer.</p> <p>The Agent answered “NO” to the “liability questions” without discussing them with the insured, including:</p> <ul style="list-style-type: none"> <li>• Do you have any aggressive pets?</li> <li>• Are there any additional locations requiring liability extensions due to your ownership, use, or occupancy?</li> <li>• Do you want to purchase umbrella coverage?</li> <li>• Do you own, rent, or lease any land used for farming?</li> </ul>
13	<p>Has the insured been informed an inspection may be carried out on this dwelling? YES</p>	<p>The Agent did not inform the insured about the inspection.</p> <p>The Agent replied “NO” to the “risk qualification and application” questions without obtaining information from the insured, including:</p> <ul style="list-style-type: none"> <li>• Entered “natural gas” as furnace type,</li> <li>• Entered “NO” to prior damage,</li> <li>• Entered “NO” to are you growing cannabis?</li> </ul>
14	<p>At Fault NO</p> <p>Winter Tires YES</p>	<p>The Agent did not confirm with the insured whether the accident was or was not at fault.</p> <p>The Agent gave the insured a “winter tires” discount without inquiring if the insured had winter tires on the vehicle.</p>
15	<p>Declined 2M liability.</p> <p>Offered property quote and was not interested.</p> <p>Pleasure use with 50000 km year</p>	<p>The Agent did not offer a higher liability amount as she wrote on the file.</p> <p>The Agent did not offer to quote a property as she wrote on the file.</p> <p>The Agent under “Annual Kms” wrote 5,000 KMs without asking or confirming with the insured.</p>
16	<p>Do you have any aggressive pets? NO</p> <p>Are there additional locations requiring liability extensions due to your ownership, use, or occupancy? NO</p> <p>Do you want to purchase Umbrella coverage? NO</p> <p>Do you own, rent, or lease any land used for farming? No, I do not.</p>	<p>The Agent responded “NO” to the “liability questions” without asking the insured, including:</p> <ul style="list-style-type: none"> <li>• Do you have any aggressive pets?</li> <li>• Are there any additional locations requiring liability extensions due to your ownership, use, or occupancy?</li> <li>• Do you want to purchase umbrella coverage?</li> <li>• Do you own, rent, or lease any land used for farming?</li> </ul>

Insurance agents work in a profession which necessitates the accurate completion of forms and insurance documents. Clients can experience difficulties when forms are incorrectly completed. Insurers also rely on the honesty or insurance intermediaries, such as brokerages, agents, and agencies, to complete forms accurately. If there was no responsibility on the insurance intermediary to ensure accuracy of information, then the insurer would presumably be assuming risk on which it had no basis of information. Therefore, it is not unreasonable to expect a high standard of due diligence be practiced by insurance intermediaries when soliciting and finalizing insurance documents. The relationship between the agent and the client, and the agent and the insurer, results in a fiduciary duty. One which requires insurance intermediaries to act in the best interest of their clients. Clients are never well served when information is inaccurately or falsely recorded, as this false or inaccurate information may lead to coverage being denied or cancelled, rendering the client uninsured.

In light of the inconsistencies between the Agent's file notes and the information provided by the investigator from the recorded phone call summaries, the objective and subjective elements of the applicable legal test under s. 480(1)(a) of the Act are met. As such, the Council finds, on twelve (12) counts, the Agent's conduct was intentional, and it is fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) 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, pursuant to s. 36.1(1)(a) of the *Insurance Agents and Adjusters Regulation*, AR 122/2001. Given the evidence that the Agent admitted to her conduct, and it appears no consumers were impacted, the Council orders that a civil penalty of \$750.00, per demonstrated offence, resulting in twelve (12) offences, equaling a total civil penalty of \$9,000.00 be levied against the Agent. The Council also has the ability to order that the Agent's certificate of authority be revoked for one year or suspended for a period of time. The Agent was granted and currently holds an active certificate of authority. This certificate of authority provides the Agent with a protective title to act as an insurance agent and to perform specialized and specific duties. Given the actions of the Agent, the Council orders that the Agent's certificate of authority be suspended for a period of thirty (30) days. The suspension shall commence immediately upon the service or attempted service of this Decision.

The civil penalty must be paid within thirty (30) days of the date the decision is mailed. In the event that the civil penalty is not paid within thirty (30) days, interest will begin to accrue. Pursuant to s. 482 of the Act (copy 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: March 20, 2024

[Original Signed By]

Janice Sabourin, Chairperson  
General 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*