

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 Soyab Khan
(the "Agent")

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

This case involved an alleged violation of s. 452(2) of the Act. Specifically, that the Agent acted as an insurance agent during a period of time in which they did not hold a valid and subsisting certificate of authority to do so, and that the Agent subsequently violated s. 480(1)(b) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated December 8, 2023 (the "Report"). The Report was forwarded to the Agent for review, and to allow the Agent an opportunity to provide the Council with any further evidence or submissions by way of Addendum.

The Agent held a Life insurance certificate of authority from October 13, 2020, to June 30, 2022, when the Agent's certificate of authority expired. The Agent is not currently licensed.

On June 30, 2022, the Agent failed to renew their certificate of authority authorizing them to act as a life insurance agent. As such, their certificate of authority expired, and the Agent was unlicensed as of July 1, 2022.

On July 16, 2022, the Agent submitted a life insurance application to [I.A.F.G.] [redacted] (the "Insurer").

On May 10, 2023, the Agent stated the following in an email correspondence to the Insurer:

[...]

I have no idea about Policy no, 0063[redacted].

As far as I remember I have never done business out of my territory without a proper license.

I check my records on my [Agency] [redacted] website commission summary (I never get paid for it either) & all my files in person records as well as in my office cabinet. [...]

On January 12, 2024, the Agent provided the AIC investigator with the following information:

[...]

My license was getting expire in June 2023, I mistakenly thought it will be expiring in month of July 2023.

Discussion

Offences such as those considered under s. 452(2) of the Act are strict liability offences. As such, the AIC has the onus to prove that the Agent acted in the capacity of an insurance agent, as defined in the Act, during a period in which they did not hold a valid and subsisting certificate of authority to do so. Once this occurs, the responsibility then shifts to the Agent to demonstrate that due diligence was exercised to avoid acting as an insurance agent when they did not hold a valid and subsisting certificate of authority to do so. There is no requirement on the AIC to prove the Agent's intent.

The evidence in the Report established that the Agent's certificate of authority automatically expired on June 30, 2022, as the Agent did not renew the certificate of authority during the AIC certificate renewal period. The Agent stated "*My license was getting expire in June 2023, I mistakenly thought it will be expiring in month of July 2023.*" It is clear that the Agent's certificate of authority was not renewed prior to the automatic expiration on June 30, 2022. It is equally clear that the Agent continued to act in the capacity of an insurance agent while unlicensed.

The Agent did not provide evidence that they exercised due diligence to ensure that they did not act in the capacity of an insurance agent while not holding a valid certificate of authority. The Agent sold one (1) policy while unlicensed. As such, the Council finds the Agent guilty of violating s. 452(2) of the Act, and subsequently violated s. 480(1)(b) of the Act.

It is the responsibility of an agent to ensure that a valid and subsisting certificate exists prior to conducting insurance business.

Pursuant to s. 36.1(1)(b) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001, the Council has the discretion to levy a civil penalty in an amount up to \$1,000.00. Given the facts in their entirety, the Council is of the view that a significant penalty is warranted in the circumstances. Therefore, the Council orders that a civil penalty in the amount of \$1,000.00 be levied against the Agent.

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. If the Agent has active certificates of authority at the time that the civil penalty becomes due, and that

civil penalty has not been duly satisfied, the Agent's active certificates of authority will be suspended in accordance with s. 480(4) of the Act. Pursuant to s. 482 of the Act (excerpt enclosed), the Agent has thirty (30) days in which to appeal this decision by filing a Notice of Appeal with the Office of the Superintendent of Insurance.

This Decision was made by way of a motion made and carried at a properly conducted meeting of the Life Insurance Council. The motion was duly recorded in the minutes of that meeting.

Dated: March 12, 2024

[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*