

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 William Davies  
(the "Agent")

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

This matter involves an alleged violation of s. 480(1)(a) of the Act. It is specifically alleged that the Agent initiated five (5) insurance applications which included falsified client emails, phone numbers, and banking information. As such, it is alleged that the Agent acted contrary to s. 480(1)(a) of the Act and is guilty of fraud, deceit, dishonesty, untrustworthiness, and/or misrepresentation.

**Facts and Evidence**

The matter proceeded to Council by way of a written Report to Council dated February 21, 2024 (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 their conclusion, the Council carefully weighed all evidence presented.

The Agent held Life and Accident and Sickness (A&S) certificates of authority from November 12, 2014, to June 2, 2023, when the Agent resigned.

The AIC commenced an investigation in response to a report from [A.M.L.I.C.] [redacted] (hereinafter the "Insurer"), on June 7, 2023. The report stated:

[...]

[The Insurer] [redacted] wishes to report Mr. William Davies [address] [redacted] to the Alberta Insurance Council, based on our concerns of his suitability to conduct business in the insurance industry.

After reviewing multiple client files and contacting some clients, many concerns were raised, including submitting life insurance applications without clients knowledge or approval, requesting [the Insurer] [redacted] to issue life insurance contracts without the clients permission, including the withdrawals of premiums from clients bank accounts without their consent, providing incorrect personal information such as the clients address, phone number, email address, making it difficult or impossible to reach out to them, using false email addresses on behalf of clients to electronically sign the application/authorization, not delivering policies to clients, etc.

[...]

CLIENT NAME	CLIENT CONTACT INFO (as provided by broker)	TIMELINE OF EVENTS	OTHER INFORMATION
<p>[D.D] [redacted] (hereinafter "Client 1") (***659 [redacted], ***130 [redacted], ***141 [redacted])</p>	<p>[address] [redacted]  [phone number] [redacted]  No email address: [sibling] [redacted] stated that [Client 1] [redacted] doesn't have internet</p>	<p>First notification from a client that started our investigation. We have received a call from the client's [sibling] [redacted] who stated [Client 1] [redacted] was not apt to purchase life insurance. ([redacted]).</p> <p>The premiums were stopped/recalled by the client through [Client 1's] [redacted] financial institution.</p> <p>We contacted [Client 1] [redacted] to have [Client 1's] [redacted] side of the story. The phone number provided on the application was disconnected.</p> <p>We reached out to [Client 1] [redacted] again, since a second application, and then a third application had been submitted in the meantime.</p> <p>Applications #2 and #3 were cancelled when our Paramedical company couldn't reach the client.</p>	<p>Information provided on the three applications were not consistent when it comes to employment and annual salary.</p> <p>Different products were also sold: [...]</p> <p>Email address used to sign the application was : [sic] D****d*****64@gmail.com [redacted] Although no email address was indicated on the application</p>

<p>[E.F.] [redacted] (hereinafter "Client 2") (***568 [redacted])</p>	<p>[address] [redacted]  [phone number] [redacted]  <b>Email address indicated on the application:</b> E****7@telus.net [redacted]  Email used for signature of contract: E****f*****1111@gmail.com [redacted]  <i>When we spoke with [Client 2] [redacted], [Client 2] [redacted] stated [Client 2's] [redacted] email address was E****f*****11@gmail.com [redacted]</i></p>	<p>Client is stating that [Client 2] [redacted] saw an ad on Facebook for Mr. Davies and contacted him. [Client 2] [redacted] said [Client 2] [redacted] never signed anything. [Client 2] [redacted] never received a copy of the contract.</p>	<p>[...]</p>
<p>[...]</p>	<p>[...]</p>	<p>[...]</p>	<p>[...]</p>
<p>[M.G.] [redacted] (hereinafter "Client 3") (***404) [redacted]</p>	<p>[address] [redacted]  ***-**-3403 [redacted] (not [Client 3's] [redacted] number – but rather [Client 3's] [redacted] ex-spouse [redacted])  Correct phone number ***-**-4247 [redacted]  C*****@hello*****.com [redacted]</p>	<p>[...]  Client mentioned that [Client 3] [redacted] knew William Davies from when [Client 3] [redacted] lived in [redacted] with [Client 3's] [redacted] ex-spouse [redacted], who was a friend of Davies.  When they separated/divorced, [Client 3's] [redacted] ex-spouse [redacted] said they should split their joint policy and that [ex-spouse] [redacted] would contact William Davies to look into it.  Mr. Davies never contacted [Client 3] [redacted] and submitted and [sic] application without</p>	<p>[...]</p>

		[Client 3's] [redacted] knowledge.	
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[...]  
[Emphasis added in original document]

On June 29, 2023, the Insurer provided the AIC investigator with the following information:

1. Client 1 Policy Number: \*\*\*659 [redacted], dated January 20, 2023 (hereinafter “Policy 1”),
2. Client 1 Policy Number: \*\*\*141 [redacted], dated March 31, 2023 (hereinafter “Policy 2”),
3. Client 1 Policy Number: \*\*\*130 [redacted], undated (hereinafter “Policy 3”),
4. Client 2 Policy Number: \*\*\*568 [redacted], dated February 15, 2023 (hereinafter “Policy 4”), and
5. Client 3 Policy Number: \*\*\*404 [redacted], dated April 10, 2023 (hereinafter “Policy 5”).

Policy 1 provided the following information as it relates to Client 1:

**First and Last Name:** [Client 1] [redacted]  
[...]  
**Email:** b\*\*\*\*m\*\*\*\*64@hotmail.com [redacted]  
[...]

OneSpan Sign Electronic Evidence Summary

[...]  
**Recipients:**  
[...]  
**Name:** [Client 1] [redacted]  
**Email:** b\*\*\*\*m\*\*\*\*67@hotmail.com [redacted]  
[...]  
[Emphasis added in original document]

Policy 2 provided the following information as it relates to Client 1:

**Frist and Last Name:** [Client 1] [redacted]  
[...]  
**Email:**  
[...]

OneSpan Sign Electronic Evidence Summary

[...]  
**Recipients:**  
[...]  
**Name:** [Client 1] [redacted]  
**Email:** d\*\*\*\*d\*\*\*\*\*64@gmail.com [redacted]  
[...]  
[Emphasis added in original document]

Policy 3 provided the following information as it relates to Client 1:

**First and Last Name:** [Client 1] [redacted]  
[...]  
**Email:** b\*\*\*\*m\*\*\*\*64@hotmail.com [redacted]

[...]  
[Emphasis added in original document]

Policy 4 provided the following information as it relates to Client 2:

**First and Last Name:** [Client 2] [redacted]  
[...]  
**Email:** e\*\*\*\*7@telus.net [redacted]  
[...]

OneSpan Sign Electronic Evidence Summary

[...]  
**Recipients:**  
[...]  
**Name:** [Client 2] [redacted]  
**Email:** e\*\*\*\*f\*\*\*\*\*1111@gmail.com [redacted]  
[...]  
[Emphasis added in original document]

Policy 5 provided the following information as it relates to Client 3:

**First and Last Name:** [Client 3] [redacted]  
[...]  
**Home telephone:** (\*\*\*) \*\*\*-3403 [redacted]  
[...]  
**Email:** c\*\*\*\*\*@hello\*\*\*\*\*.com [redacted]  
[...]

OneSpan Sign Electronic Evidence Summary

[...]  
**Recipient:**  
[...]  
**Name:** [Client 3] [redacted]  
**Email:** w\*\*\*@clear\*\*\*\*\*.ca [redacted]  
[...]  
[Emphasis added in original document]

### **Discussion**

In order for the Council to conclude that the Agent has committed an offence pursuant to s. 480(1)(a) of the Act, the Report must provide, on the basis of clear and cogent evidence, that it is more likely than not that the Agent committed the act as alleged. The requirement of clear and cogent evidence reflects that the Council's finding can dramatically impact an insurance agent's ability to remain in the industry. Therefore, the Council carefully weighs all evidence before it prior to 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 Queens's Bench of Alberta Decision, *Roy v. Alberta (Insurance Councils Appeal Board)*, 2008 ABQB 572 (hereinafter "*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 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 fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act when the Agent initiated five (5) insurance applications which included falsified client emails, phone numbers, and banking information.

Collectively, the Council is comprised of both industry and public members who are well- equipped to assess consumer risk and industry competence. The Council weighed the effects of the alleged actions, the evidence presented, and the accounts of all parties involved when arriving at their conclusion.

The insurance applications, and the June 7, 2023 Email from the Insurer were of significance to the Council's decision. In the Council's opinion, these materials demonstrated that the Agent acted in a dishonest, deceitful, fraudulent and untrustworthy manner as contemplated by the Act.

The Council took specific issue with the information provided in the Insurer's June 7, 2023 Email outlining the results of their investigation. Specifically, as it relates to the following information provided from the Insurer's investigation:

<b>Client/Policy</b>	<b>Information</b>
Client 1 Policy No. 1, 2, and 3	- The Insurer received a call from the Client's sibling stating the Client was not apt to purchase life insurance. - The Client's sibling stated the Client did not have internet
Client 2 Policy No. 4	- The email address on the application and the email address used to sign the applicant were false

	- Client 2 provided their correct email address which was different than the email on the application and the one used to sign the application.
Client 3 Policy No. 5	- The phone number on the application belonged to the Client's former spouse. - The Agent used an email that appeared to be his email address to sign the application.

Based on the information provided by the Insurer, it is the Council's opinion that the Agent intentionally provided false information on the insurance applications, relating to Client 2 and 3, for a self-serving purpose. In addition, the Council is of the opinion that the Agent sold insurance products to Client 1, when Client 1 was not capable of purchasing insurance coverage.

Consumers who purchase insurance products expect that insurance agents will act with the utmost good faith while carrying out their work. Honesty and integrity are the hallmarks of a good insurance agent. An insurance agent owes a fiduciary obligation to act in the best interest of their clients. It is, therefore, not unreasonable to expect that a high standard of due diligence be practiced by insurance agents.

In light of the information provided by the Agent, the evidence submitted by the Insurer confirms that the Agent initiated five (5) insurance applications containing falsified information, the objective and subjective elements of the applicable legal test under s. 480(1)(a) are met. This was intentional conduct, and it is fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated pursuant to s. 480(1)(a) of the Act.

The *Insurance Act* and its Regulations act as a mechanism of public protection. It is the view of the Council that the Agent's deception was self-serving, as it was deliberate and without any consideration of the risk they were subjecting the former clients and the Insurer to. Accordingly, a significant civil penalty is warranted under the circumstances.

In terms of 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 against an agent, in accordance with s. 36.1(1)(a) of the *Insurance Agents and Adjusters Regulation*, AR 122/2001. Given the seriousness of the offence, the



Council orders a civil penalty per demonstrated offence in the amount of \$5,000.00 resulting in five (5) offences, equaling a total civil penalty of \$25,000.00 be levied against the Agent.

The civil penalty must be paid within thirty (30) days of receiving this notice. If the penalty is not paid within thirty (30) days, interest will begin to accrue at the rate of 12% per annum as prescribed by s. 36.1(2) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001.

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 Life Insurance Council. The motion was duly recorded in the Minutes of that meeting.

Date: July 11, 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](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*