

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 Alpine Insurance & Financial Inc.
(the "Agency")

And

As represented by
Edward Parry, Designated Representative
(the "DR")

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 in Count 1 that the Agency, on three (3) occasions, during the course of three policy renewal periods, sent policy renewal documents to a client that had endorsements added that were not requested by the client and were added without the informed consent of the client. In so doing, it is alleged that the Agency is guilty of misrepresentation, fraud, deceit, untrustworthiness, or dishonesty, as contemplated by s. 480(1)(a) of the Act.

In Count 2, it is alleged that the Agency, on sixty-four thousand, seven hundred and four (64,704) occasions, added endorsements to policy renewal documents that were not requested by the clients and were added without the informed consent of the clients. 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 August 27, 2024 (the "Report"). The Report was forwarded to the DR for review and to allow the Agency 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 Agency is the holder of a General Insurance Agency certificate of authority and has held such, consistently, since October 24, 2005.

This matter arose in response to an email received by the AIC from the Office of the Superintendent of Insurance (hereinafter the “SOI”) on May 31, 2023, regarding a complaint they had received from [A.H.] [redacted] (hereinafter the “Complainant”), relating to the conduct of the Agency:

[...]

...there are concerns about the conduct of the broker as well. [The Complainant] [redacted] advised that on [the Complainant’s] [redacted] auto and property policy renewals, there were changes made to [the Complainant’s] [redacted] limits as well as endorsements added without [the Complainant’s] [redacted] consent.

At [the Complainant’s] [redacted] renewal last year, the same changes were made and when [the Complainant] [redacted] brought it up with the broker, they were removed at [the Complainant’s] [redacted] request. Now at this new renewal term, those same changes were made again without [the Complainant’s] [redacted] consent and [the Complainant] [redacted] was not notified.

[The Complainant] [redacted] explained the concern to the broker manager and was told that “they asked [I.I.] [redacted] (hereinafter the “Insurer”) to do a total book enhancement for inclusion of the added TPL limits and additional endorsements. [The Broker Manager] [redacted] confirmed they do not tell clients what they are doing and only deal with those who question the changes to the renewal offer.”

[...]

On June 7, 2023, the AIC investigator requested the Complainant, provide the following information:

[...]

- Any/all correspondence with Alpine Insurance & Financial Inc. and any of their affiliated agents regarding this matter; and,
- Policy documents and renewal documents; and,
- Any other information you feel may be relevant.

[...]

On June 7, 2023, the Complainant provided the following information to the AIC investigator:

[...]

I have no correspondence to or from Alpine or any of their affiliated agents with respect to this year’s offer to renew, which I received directly from the insurer.

The following is a copy of my email exchange with [the SOI] [redacted].

Attached are the documents I submitted to [the SOI] [redacted].

Please let me know if I can provide any further information on this matter.

[...]

This is a copy of my email to and from [the SOI] [redacted].

[...]

Also, I recall having told our broker last renewal to delete unwanted endorsements – which magically reappeared on this years [sic] renewal again. I can also confirm it was me who contacted the broker to discuss these unwanted endorsements – they did not contact me about them being included on the renewal offer.

After receiving your email I contacted the broker manager and explained my concern to [the Broker Manager] [redacted]. [The Broker Manager] [redacted] indicated that they asked [the Insurer] [redacted] to do a total book enhancement for inclusion of the added TPL limits and additional endorsements. [The Broker Manager] [redacted] confirmed they do not tell clients what they are doing and only deal with those who question the changes to the renewal offer.

Here are the changes/additions to our renewal offer:

Increased TPL limits on both cars.

[Vehicle 1] [redacted] added Minor conviction and Plus Pac endorsements [...]. I do not know what the added cost is for the additional TPL limits

[Vehicle 2] [redacted] added TPL limits [...].

Home Insurance they have added two endorsements [...]- Lifestyle Advantage and My Identity. I believe I asked for these same endorsements to be removed from last years [sic] policy.

Please let me know if more information is required.

[...]

[Emphasis added in original document]

On June 8, 2023, the AIC investigator requested the following information from the Agency:

[...]

The AIC is in receipt of a complaint from [the Complainant] [redacted], where it is alleged that Alpine Insurance & Financial Inc. made changes to [the Complainant's] [redacted] policy without [the Complainant's] [redacted] knowledge or consent. To assist in my investigation please provide [...]

- A detailed timeline and explanation of the events that pertain to this matter; and,
- Any/all correspondence with [the Insurer] [redacted] regarding this matter; and,
- Any/all correspondence with [the Complainant] [redacted] regarding this matter; and,
- Policy documents, including renewals for the last three years; and,
- Any other information or documentation which you feel may assist in the understanding of the material facts.

[...]

On June 13, 2023, the Agency responded to the AIC's request with the following information:

[...]

Alpine Insurance and Financial Inc. is dedicated to providing our clients with the most comprehensive coverage available to protect their assets and liabilities. As part of this commitment, we have a renewal portfolio agreement in place with [the Insurer] [redacted] to include specific coverages policyholders become eligible or qualify for and/or do not have on their policy.

As auto liability limits were being exceeded in recent years, we determined an increase in the auto liability limits on our [Insurer] [redacted] portfolio to \$2,000,000. was in the best interest to protect our clients.

The additional coverages have benefited and protected client's premiums and claims coverage.

A detailed timeline and explanation of the events is outlined below. All correspondence with [the Complainant] [redacted] including policy documents for the last three years. The changes requested by [the Complainant] [redacted] were completed in the [Insurer] [redacted] portal.

[The Complainant] [redacted] became new clients to Alpine Insurance & financial Inc. in July 2020.

- 1) July 15 2020-2021 [the Insurer] [redacted] Policy #KX*****86 [redacted] New Policy

[Vehicle 1] [redacted]

[Vehicle 2] [redacted]

[Home Address] [redacted] Homeowners Comprehensive

[Rented Address] [redacted] Rented Dwelling-Fire and Extended Coverage

- 2) July 15 2021-2022 Renewal

Clients eligible for the Minor Conviction Rating Waiver Endorsement (CAE 5), added to the [Vehicle 1] [redacted] and [Vehicle 2] [redacted]. The Plus Pac (SEF27, SEF20, SEF35) added to the [Vehicle 2] [redacted]. My Identity added to [Home Address] [redacted] Homeowners Comprehensive.

- 3) June 7 and 11 2021 Received emails from [the Complainant] [redacted] with questions on the July 15, 2021, renewal.

June 11, 2021, Our Account Manager, [H.P.] [redacted] (hereinafter the "Account Manager 1") responded by [sic] e-mail advising [the Account Manager 1] [redacted] would call [the Complainant] [redacted] as soon as possible. [The Account Manager 1] [redacted] called Insureds, left a voicemail message to call us to complete a renewal review.

- 4) June 27, 2021, received email [sic] from [the Complainant] [redacted] requesting changes to [the Complainant's] [redacted] July 15 2021 renewal and confirming premiums.
[Home Address] [redacted]-Delete the ground water coverage, Lifestyle coverage and My identity coverage.
[Vehicle 1] [redacted]-Delete Minor Conviction Endorsement
[Vehicle 2] [redacted]-delete the Minor conviction Endorsement and Plus Pac endorsement
- 5) June 30, 2021, Our Account Manager, [M.E.H.] [redacted] (hereinafter "Account Manager 2") called [the Complainant] [redacted], reviewed the e-mail requested coverage changes. [The Complainant] [redacted] deleted the Minor Conviction Waiver on the [Vehicle 1] [redacted] and [Vehicle 2] [redacted]. [The Complainant] [redacted] also removed the Plus Pac on the [Vehicle 2] [redacted]. On [Home Address] [redacted] [the Complainant] [redacted] deleted Lifestyle Advantage and My Identity; [the Complainant] [redacted] did not delete Ground Water.
- 6) July 15 2021-2022 Renewal Reissued with the changes [the Complainant] [redacted] requested.
- 7) June 1, 2022-Effective this date, Vacancy Permit was added to the Rented Dwelling at [Rented Address] [redacted] per phone call with [the Complainant] [redacted] and our [Account Manager 1] [redacted].
- 8) July 15 2022-2023 Renewal
[The Insurer] [redacted] no longer offering Overland Water and Ground Water coverage as part of the Enhanced Water Damage Package on [Home Address] [redacted].
[...]
Direct Compensation to Property Damage introduced effective January 1, 2022
[...]
Clients eligible for the Minor Conviction Rating Waiver Endorsement (CAE 5) added to the [Vehicle 1] [redacted] and [Vehicle 2] [redacted]. The Plus Pac (SEF27, SEF20, CAE26) added to the [Vehicle 2] [redacted]. My Identity and Lifestyle Advantage added to [Home Address] [redacted] Homeowners Comprehensive.
- 9) June 17, 2022, [Account Manager 1] [redacted] called [the Complainant] [redacted] and advised [Account Manager 1] [redacted] wanted to review [the Complainant's] [redacted] renewal with [the Complainant] [redacted]. In the call [Account Manager 1] [redacted] asked if [the Complainant] [redacted] wanted to amend to \$2,000,000. auto Liability-[the Complainant] [redacted] declined (renewal showed \$1,000,000. Liability). [Account Manager 1] [redacted] asked if [the Complainant] [redacted] wanted to remove the Minor Conviction Waivers on the vehicles and [the Complainant] [redacted] said yes along with Roadside Assistance (Plus Pac) off the [Vehicle 1] [redacted]. [The Complainant] [redacted] was okay only having the Plus Pac on the [Vehicle 2] [redacted]. [Account Manager 1] [redacted] advised [the Insurer] [redacted] is no longer offering Overland and Ground Water Coverage. [The Complainant] [redacted] also removed Lifestyle Advantage and My Identity. The location [Rented Address] [redacted] was amended to vacant.

[Account Manager 1] [redacted] emailed a letter to [the Complainant] [redacted] advising effective July 15, 2022, [the Insurer] [redacted] has removed the Overland Water and Ground Water Coverages for the home at [Home Address] [redacted] due to the higher flood risk where the property is located.
- 10) July 15 2022-2023 Renewal Reissued with the changes [the Complainant] [redacted] requested.
- 11) September 3, 2022, [Account Manager 1] [redacted] deleted location at [Rented Address] [redacted] as it was sold.
- 12) July 15 2023-2024 Renewal
Client eligible for the Minor Conviction Rating Waiver Endorsement (CAE5) and Plus Pac (CAE26, SEF20, SEF27), added to the [Vehicle 1] [redacted]. The [Vehicle 1] [redacted] and [Vehicle 2] [redacted] were amended to \$2,000,000. Liability.

The Renewal documents list At-Fault Accident Waiver (Commercial Vehicle) (AB-SEF 39A) on the [Vehicle 1] [redacted] and [Vehicle 2] [redacted], this should not reference Commercial Vehicle, this is a printing error in [the Insurer's] [redacted] system, and they are working to correct.

A portion of the auto renewal premium increase is a result of [the Insurer] [redacted] reviewing [the Complainant's] [redacted] Motor Vehicle Report, and it listed a minor moving traffic conviction December 10, 2021, as a result the [Vehicle 2] [redacted] is rated 7* versus 8* rating [the Complainant] [redacted] had previously. If the minor conviction rating waiver had remained on this vehicle via the renewal portfolio ((2022-2023) the driving record would not have been impacted.

My Identity and Lifestyle Advantage added to [Home Address] [redacted] Homeowners Comprehensive.

- 13) May 29, 2023, [the Complainant] [redacted] emailed Alpine, Edmonton Branch, [K.M.] [redacted] called [the Complainant] [redacted], [K.M.] [redacted] explained the coverages that were added/amended can be deleted/changed off the July 15, 2023, renewal. [The Complainant] [redacted] declined to do a renewal review or an alternative market comparison as [the Complainant] [redacted] advised [the Complainant] [redacted] would not be renewing. A cancellation form was mailed to the Insureds for them both to sign and return.
[...]

In the same email of June 13, 2023, the Agency provided copies of email correspondence between the Complainant and the Agency dated June 7 to June 27, 2021 (hereinafter the "June 2021 Emails") which stated:

[...]

From: [the Complainant] [redacted]

Sent: Monday, June 7, 2021 9:03 AM

To: [Account Manager 1] [redacted]

Subject: FW: [the Insurer] [redacted] Insurance – Policy documents

[...] I have a few questions on our auto and home renewals that just came in. Are you available to talk with us on the renewal offer?

[...]

From: [the Complainant] [redacted]

Sent: Sunday, June 27, 2021 11:37 AM

To: [Account Manager 1] [redacted]

Subject: Re: [the Insurer] [redacted] Insurance – Policy Documents

[...]

I have reviewed our policy renewal offers on both homes and both vehicles.

Could we please make the following changes to the policies:

Home [Home Address] [redacted]. We would like to delete the ground water coverage, Life Style coverage and My identity coverage. [...]

Auto [Vehicle 1] [redacted], we would like to delete the Minor Conviction Endorsement [...]

Auto [Vehicle 2] [redacted], we would like to delete the Minor conviction endorsement [...] and also delete the Plus Pac endorsement [...].

Please confirm these above changes will be applied to the renewal [...]

[Emphasis added in original documents]

On June 20, 2023, the Agency provided the following information to the AIC investigator:

[...]

- Your renewal portfolio agreement with [the Insurer] [redacted]; and,

To clarify our description of renewal portfolio agreement, this is not a stand alone document, it is an ongoing agreement, changes are made depending on factors such as [the Insurer's] [redacted] coverage offerings, economic and claims conditions.

[...]

On June 20, 2023, the AIC investigator requested the following information from the Agency:

[...]

Please provide the full contract/agreement documents you have with [the Insurer] [redacted] including any correspondence regarding the agreement. [...]

On June 22, 2023, the Agency provided the following information:

[...]

Alpine has no formal portfolio contract or agreement.

[...]

On July 4, 2023, the Agency responded to the AIC investigator with the following information:

[...]

I've obtained confirmation from [the Insurer] [redacted], as per the attached e-mail that there is no formal portfolio agreements/contracts.

[...]

In the same email of July 4, 2023, the Agency provided an email dated June 30, 2023, from the Insurer which stated:

[...] I can confirm that [the Insurer] [redacted] does not have any formal agreements in place with Alpine Insurance with regards to portfolio additions.

[...]

On July 17, 2023, the AIC investigator requested the Agency provide the following:

[...]

Between June 13, 2023 and July 12, 2023, I have received contradictory information. Here is a summary of the information you and Alpine have provided to the AIC.

June 13th, 2023 – You told me that you had a portfolio agreement between [the Insurer] [redacted] and Alpine. The agreement in place required Alpine to add all endorsements a client may qualify for at renewal. You provided this information as justification for the arbitrary addition of endorsements without client consent.

June 19th, 2023 – I requested from you a copy of the portfolio agreement you described on June 13, 2023.

June 20th, 2023 – You stated that the agreement is not a stand-alone document and is part of an ongoing agreement.

I then requested from you all your contracts/agreement documents with [the Insurer] [redacted]

June 22, 2023 – You advised that no contract existed.

June 23rd, 2023 – You told me that Alpine's requirement to add endorsements at renewal was based on a verbal contract.

I then emailed you and asked you to provide the full contract/policy documents between [the Insurer] [redacted] and Alpine.

July 4th, 2023 – You provided me with an email from a Business Development Manager (from [the Insurer] [redacted]) saying no contract existed.

July 5, 2023 – I issued a Demand for Information to you for your contracts/agreements with [the Insurer] [redacted].

July 12th, 2023 – I was advised by your VP of Operations on behalf of you that [the VP] [redacted] was providing two contracts with [the Insurer] [redacted] to satisfy our investigation. No agreement between Alpine and [the Insurer] [redacted] was provided within the documents that you provided.

As a matter of policy, Alpine adds endorsements that insureds qualify for at renewal. These endorsements are added arbitrarily without direction from the insured. In justification of this policy you first stated that there is a portfolio agreement between [the Insurer] [redacted] and Alpine directing Alpine to do this. You then stated that the agreement was verbal. After a demand was issued Alpine claims there is no written agreement.

[...]

Please respond to the following questions:

- A. If there isn't an Agreement between [the Insurer] [redacted] and Alpine directing Alpine to add endorsements at renewal.
- On what basis did Alpine institute the policy of adding endorsements at renewal without the client's consent?
 - Why did you provide me with false information?
- B. If there is an Agreement between [the Insurer] [redacted] and Alpine directing Alpine to add endorsements at renewal.
- Why are you failing to provide the agreement?
 - Are you going to provide the agreement?
 - Why did you agree to follow direction from [the Insurer] [redacted] that is misleading and potentially harmful to clients?

[...]

[Emphasis added in original document]

On July 27, 2023, the Agency provided the following response to the AIC investigator:

Contradictory information: It is not our intention to provide conflicting information, there may be some description and interpretation misalignment. If we inadvertently lead [sic] you to believe there was a formal written portfolio agreement in place that was based on a terminology description and explanation.

June 13 2023:

Portfolio agreement terminology may not accurately reflect the process. Alpine and [the Insurer] [redacted] have agreed to place specific endorsements that clients qualify for on renewals. As you have described, a better wording may be "adding endorsements at renewal a client qualifies for".

Alpine is not required nor directed to add all endorsements a client may qualify for at renewal. Alpine has voluntarily made the decision to add endorsements as it is in a clients [sic] best interests.

June 20 and 22 2023:

There is no formal written portfolio contract or agreement, it is the process to add endorsements at renewal a client qualifies for no different than we agreed to increase liability limits from \$1M to \$2M at renewal.

June 23 2023:

Alpine is not required to add endorsements at renewal but as stated above Alpine and [the Insurer] [redacted] have agreed to add endorsements as it is in a clients [sic] best interest.

July 4 2023:

No portfolio agreements/contracts.

[The Insurer] [redacted] does not have any formal agreements in place with Alpine Insurance with regards to portfolio additions.

Questions:

A: The basis of adding endorsements at renewal is to provide the coverage clients are eligible for to protect them for future claims and against premium increases. If our clients request that the endorsements be removed, we ensure they understand the coverage and will remove. Renewals are typically received by a client 45 days prior to the renewal date. At this time it is only an offer to renew. We are acting as Insurance professionals offering our clients the highest level of Insurance protection they qualify for.

[...]

B: There is no written agreement or addendum to our contract between [the Insurer] [redacted] and Alpine directing Alpine to add endorsements at renewal. [The Insurer] [redacted] does the renewals and forwards them directly to the clients on our behalf.

[...]

In this specific instance [...] – If a client had a situation and they didn't have an endorsement they qualified for, an inadequate limit of Liability coverage we have opened our selves [sic] up to an E&O regardless.

We act as Insurance Professionals at all times and take the clients [sic] interests first in all situations. In this specific case [the Complainant] [redacted] and many thousands of policy holders this is the only situation to our knowledge that has caused a complaint.

[...]

On August 16, 2023, the Agency hand delivered a letter to the AIC which provided the following information:

[...]

Alpine's determination of clients' best interest is to protect our clients for claims and premium increases with specific endorsements they are eligible and qualify for and do not have on their policy. The coverage is dependent on factors such as becoming eligible for auto accident forgiveness or conviction waiver, economic and claims conditions. As auto liability limits were being exceeded in recent years, an increase to \$2,000,000 was implemented and recommended on renewal and new policies.

Our administration processing team reviews the insurance carrier renewal policy document downloads for missing specific insurance carrier coverages and sends an activity to the assigned Alpine representative.

Our Alpine representatives complete Care Calls with clients by conversation. The checklists are embedded in our broker management system. These can be completed at renewal or at time of a change in information or risks. Activities are entered in our broker management system to capture the details of the conversation.

Alpine management conduct audit's [sic], have individual employee Coffee and Conversations, host team meetings, coaching, mentoring, providing guidance on concerns and questions about coverage, provide insurance carrier training opportunities on coverage and products, industry webinars and online training and utilize real claims examples to support acting in our clients' best interests.

Our overall philosophy is to offer clients the most comprehensive coverage, it is embedded in our day-to-day corporate strategy. [...]

The [Insurer] [redacted] Personal lines policy renewal process is automated by their systems and generates approximately 45 days prior to renewal, including the addition of endorsements that clients qualify for, unless there is [Insurer] [redacted] underwriting intervention. Alpine may also have notes in our broker management system to identify an action or review is required on a renewal. Direct Bill payment policies (automatic withdrawal, payment plans, etc.) are sent directly from [the Insurer] [redacted] to the client. Agency Bill payment policies are sent to Alpine to invoice and send to clients, however 95+% of our clients are Direct Bill.

As the renewal process is automated, we don't give direction to [the Insurer] [redacted] to add the endorsements on a case-by-case basis, unless our broker management system notes prompt us on a specific policy. Alpine would not request the deletion of endorsements unless directed by our client.

[...]

On February 16, 2024, the AIC investigators met with [F.V.] [redacted], VP of Business Development, [D.P.] [redacted], Legal Counsel and [M.G.] [redacted], Legal Counsel, for the Insurer at their offices. Legal Counsel was present through Zoom.

On February 16, 2024, the AIC investigator requested confirmation of information obtained during the February 16, 2024, meeting with representatives of the Insurer, as follows:

[...]

- All agencies are treated the same, regardless of whether they are under the parent company of [I.F.C.] [redacted] (hereinafter the “Parent Company”).
- The Business Development Manager reviews the agency books at the beginning of the year to recognize possible gaps.
- If gaps are found, it is up to the agency’s DR (designated representative) if they want to do a mass roll-up at renewal or if they would like to do it manually for each client.
- Most liabilities are over 1M (maybe a few at \$500K) but not under this amount.
- For roll-ups, [the Insurer] [redacted] does it by periods, and if the DR wants it for the renewal, they can request it and will [sic] be added to a new roll-up.
- [The Insurer] [redacted] is of the idea that the agency obtains the implied consent to debit insureds’ bank accounts, and [the Insurer] [redacted] does not confirm this with the insured.
- Most communication between [the Insurer] [redacted] and the agencies is by phone or email, aside from the formal contract agreement.

[...]

On February 28, 2024, Legal Counsel for the Insurer provided the following information:

[...]

Thank you for the summary below. We have added some further clarifications to make sure we are all aligned. Please see our comments below in blue.

[...]

- All agencies are treated the same, regardless of whether they are under the parent company of [the Parent Company] [redacted].
 - [The Insurer] [redacted] does not control or dictate the operations of brokerages, regardless of whether they are owned by [the Parent Company] [redacted].
- The Business Development Manager reviews the agency books at the beginning of the year to recognize possible gaps.
 - Yes, the Business Development Manager will review as many agency books as possible on a regular basis throughout the year. It may not always be at the beginning of the year.
- If gaps are found, it is up to the agency's DR (designated representative) if they want to do a mass roll-up at renewal or if they would like to do it manually for each client.
 - Yes, if a brokerage’s representative decides to add coverage(s) based on their clients’ best interests, they can do so through a mass roll up at renewal or manually client by client.
- Most liabilities are over 1M (maybe a few at \$500K) but not under this amount.
 - More than 95% of [the Insurer’s] [redacted] personal lines book of business in Alberta has liability coverage at \$1M or higher, the majority of which is over \$2M. However, there may be a small percentage of [the Insurer’s] [redacted] book that is under \$1M.
- For roll-ups, [the Insurer] [redacted] does it by periods, and if the DR wants it for the new renewal, they can request it and will be added to a new roll-up.
 - If a brokerage’s representative requests that coverage(s) be added at renewal, they will have the option to continue the additions for multiple renewal periods (until they ask [the Insurer] [redacted] to stop) or limit it to a 1-year period.

- [The Insurer] [redacted] is of the idea that the agency obtains the implied consent to debit insureds' bank accounts, and [the Insurer] [redacted] does not confirm this with the insured.
 - As discussed in our meeting, we cannot comment on the specific situation mentioned, but we are happy to look into this further if you would like to give us more information.
 - Depending on the specific situation, [the Insurer] [redacted] may be relying on the consent obtained by a broker or a business transaction exemption. Again, we are happy to look further into this if needed.

[...]

On February 22, 2024, the AIC investigator requested the following information from the Agency:

[...]

Please provide me with a list of all renewals with [the Insurer] [redacted] for the period of January 1, 2022 to December 31, 2023, for Alpine Insurance & Financial Inc.

[...]

On March 5, 2024, the Agency provided their book of business with the Insurer for all renewals within the requested period.

On September 19, 2024, the Agency provided the following additional information by way of Addendum, which stated in part:

[...]

1. Alpine disagrees with the conclusions in the Report to Council that Alpine's conduct amounted to a *scheme*. Alpine also disagrees that its conduct can be characterized as *dishonest or deceitful*. Alpine recognizes the important of fair treatment of customers and the practice of enhancing its customers' home and automobile insurance with additional coverage was done with its customers' best interests in mind.
2. [...]
3. Alpine recognizes that there is room to improve its practices and intends to ensure customers receive notice, before renewal, that identifies any newly recommended coverages added to their policies, the associated increase in premium and the opportunity to decline the coverage before renewal.

ALPINE'S CONDUCT AND BUSINESS PRACTICES

4. Alpine respectfully requests that Council consider the following submissions in response to the conclusions reached in the Report to Council and the "Aggravating Factors," considered in arriving at the Recommended Penalty.

Alpine was acting in the best interests of its customers

5. Insurance brokers must act in the best interest of their customers. The AIC General Insurance Code of Conduct requires this, and insurance customers expect it. Insurance customers rely on insurance brokers to ensure that the risks they face are identified to them and addressed and their insurance needs are met. Customers expect their insurance brokers to ascertain foreseeable risks and to arrange suitable insurance products. Failing to meet this standard can result in harm to customers and a finding of negligence on the part of brokers. The endorsements that are the subject of the complaint giving rise to this investigation are examples of incidental coverage intended to protect against present and real risks with limited costs to customers.
6. [...]
9. Alpine concedes that it received increased commission when adding endorsements to its customers' policies. However, this was not the motive behind adding these endorsements to its customers' policies. Alpine added these endorsements in order to fulfill its obligations as an insurance broker and to ensure its customers had robust coverage for reasonably foreseeable risks as homeowners and operators of automobiles.

Alpine's conduct was not deceitful or dishonest

10. Alpine recognizes that it could have done a better job with respect to the notice it provided to customers when endorsement coverage is added. As such, Alpine is committed to implementing written communication when endorsement coverage is recommended and hence added before renewal. The written communication will state which coverage has been added, the rationale for adding the coverage, and the amount of the associated premium. It will also clearly indicate that any such endorsement can be removed at any time up to the date of renewal. This communication will be sent 45 to 60 days prior to renewal with the renewal package.
11. However, the Report to Council does not identify any *deceitful* or *dishonest* conduct associated with Alpine's practice of adding endorsement coverage to its customers' policies. The added coverages were disclosed on the declaration pages sent with the customers' renewal documents. Renewal documents were sent to customers 45-60 days prior to renewal. In the event a customer asked that a coverage be removed it was done so without cost or penalty to the customer (including in the case of the complainant).
12. Alpine further submits that the practice of adding endorsement coverage to protect against reasonably foreseeable risks, is not *unfair*. However, Alpine will take steps to ensure that customers are notified, as described above.
[...]

THE RECOMMENDED PENALTY

16. [...]

17. Alpine is committed to the following with respect to its business practices:

- a. Alpine will ensure written notice is sent at least 45 days to 60 days in advance of renewal to any customer for which recommended endorsement coverage has been added to their policy of insurance. The notice will describe the added coverage, the risk against which the coverage is designed to respond, and the corresponding premium and it will inform customers that they can have the endorsement removed, if they wish and how they may do so; and
- b. Alpine will test the proposed changes to ensure they have been implemented and are operating effectively.
[Emphasis added in original document]

Discussion

In order for the Council to conclude that the Agency 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 Agency committed the act as alleged. The Council is cognizant that findings of guilt under s. 480(1)(a) can dramatically impact an insurance intermediary'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 Agency'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 Councils Appeal Board 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 principle 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.

[Emphasis added]

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.

In Count 1, the Report alleged that the Agency was guilty of three (3) counts of fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act when the Agency added endorsements to the Complainant's insurance policy, during the course of three policy renewal periods in 2021, 2022, and 2023, that were not requested by the Complainant and without the informed consent of the Complainant, after the Complainant requested the removal of these policies in two of the previous renewal periods.

In Count 2, the Report alleged that the Agency was guilty of sixty-four thousand seven hundred and four (64,704) counts of fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act when the Agency intentionally added endorsements to the clients' policies in their book of business with the Insurer that were not requested by the clients and without the informed consent of the clients.

Section 4 of the *Insurance Councils Regulation*, A.R. 126/2001, sets out the composition requirements of the General Insurance Council. The Council is comprised of eight members; two appointed by the Lieutenant Governor in Council that do not hold (insurance) certificates of authority, one appointed by the Insurance Bureau of Canada that is engaged in general insurance business and employed by a licensed insurer that does not restrict its agents from acting as general insurance agents for other insurers, three elected in accordance with the *Insurance Councils Regulation*, A.R. 126/2001 that hold general insurance certificates of authority and are not employed by an insurer and are not restricted by contract from acting as an insurance agent for more than one insurer, and two appointed by the Insurance Bureau of Canada that are engaged in the general insurance business and employed by a licensed insurer that are restricted from acting as a general insurance agent for other insurers.

Council quorum is established by the *General Insurance Council By-Laws*, adopted July 11, 2007:

4. QUORUM

4.1 The quorum for all meetings of the General Insurance Council shall be 5 members.

Although quorum was present to conduct the council meeting, quorum was lost with respect to this investigation and could not be repaired as three of the five Council Members recused themselves due to a conflict of interest. Accordingly, the Council struck a *Review Committee* in accordance with *Articles I and IV* of the *General Insurance Council By-Laws* duly approved July 11, 2007:

ARTICLE IV – COMMITTEES**1. ESTABLISHING COMMITTEES**

- 1.1 The General Insurance Council may at any meeting establish any standing or ad hoc committees that it deems necessary to carry out the **objects** of the General Insurance Council and may by resolution set out the duties and function of such committees. [...]

ARTICLE I – OBJECTS

- 1.1 The General Insurance Council has its objects:

[...]

- (i) to revoke, suspend and/or impose penalties against the holder or former holder of an insurance agent's certificate of authority pursuant to Section 480 of the *Insurance Act*, [...]

[Emphasis added]

The *Review Committee* was comprised of two voting members of the Council. The *Review Committee* was charged with reviewing the Report and making recommendations for the Council to accept. The Council conceded that the recommendations of the *Review Committee* would be accepted by the Council and binding on the Council as if the Council had rendered the decision as a whole.

The *Review Committee* convened. The *Review Committee* recommended, as it related to Count 1, that the Agency is guilty of three (3) violations of s. 480(1)(a) of the Act. The *Review Committee* recommended that a civil penalty of \$5,000.00 be levied against the Agency, per demonstrated offence, for a total civil penalty of \$15,000.00. The Council accepted the recommendations of the *Review Committee* by way of a motion duly made and carried at a properly conducted meeting of the Council.

As it related to Count 2, the *Review Committee* recommended that the Agency is guilty of sixty-four thousand seven hundred and four (64,704) violations of s. 480(1)(a) of the Act. The *Review Committee* recommended that a civil penalty of \$3.00 be levied against the Agency, per demonstrated offence, for a total civil penalty of \$194,112.00. The Council accepted the recommendations of the *Review Committee* by way of a motion duly made and carried at a properly conducted meeting of the Council.

The Council found the June 7, 2023, email from the Complainant to be of significance as it stated the following:

[...]

Also, I recall having told our broker last renewal to delete unwanted endorsements – which magically reappeared on this years [sic] renewal again. I can also confirm it was me who contacted the broker to discuss these unwanted endorsements – they did not contact me about them being included on the renewal offer.

After receiving your email I contacted the broker manager and explained my concern to [the Broker Manager] [redacted]. [The Broker Manager] [redacted] indicated that they asked [the Insurer] [redacted] to do a total book enhancement for inclusion of the added TPL limits and additional endorsements. [The Broker Manager] [redacted] confirmed they do not tell clients what they are doing and only deal with those who question the changes to the renewal offer.

[...]

The Council acknowledged that the Complainant had endorsements added to their renewal documents for policy number K[redacted]3147 without their knowledge and/or consent, including four added endorsements in 2021, five in 2022, and four in 2023. In addition, the Complainant's automobile liability limits increased from \$1,000,000 to \$2,000,000 on their 2023 policy renewal.

In the June 13, 2023, email, the Agency stated that they have a renewal portfolio agreement with the Insurer to add endorsements to their clients' policies. The Agency also stated that they unilaterally determined to increase liability limits on auto policies to \$2,000,000:

[...]

Alpine Insurance and Financial Inc. is dedicated to providing our clients with the most comprehensive coverage available to protect their assets and liabilities. As part of this commitment, we have a renewal portfolio agreement in place with [the Insurer] [redacted] to include specific coverages policyholders become eligible or qualify for and/or do not have on their policy.

As auto liability limits were being exceeded in recent years, we determined an increase in the auto liability limits on our [Insurer] portfolio to \$2,000,000. was in the best interest to protect our clients.

[...]

The Council was concerned with such decisions on the part of the Agency to make changes to clients' insurance policies without the knowledge and/or consent of the clients.

The Council was also concerned with the statement from the Agency that they have a formal agreement in place with the Insurer to add endorsements to clients' policies without the informed consent of their clients. The Council noted that when the Agency was requested by the AIC to provide a copy of this agreement, the Agency stated in their June 22, 2023 email that there was no such agreement:

[...]

Alpine has no formal portfolio contract or agreement.

[...]

The Council noted the following explanation from the Agency regarding any formal portfolio agreements with the Insurer in their July 27, 2023, letter to the AIC:

Contradictory information: It is not our intent to provide conflicting information, there may be some description and interpretation misalignment. If we inadvertently lead you to believe there was a formal written portfolio agreement in place that was based on a terminology description and explanation.

June 13 2023:

Portfolio agreement terminology may not accurately reflect the process. Alpine and [the Insurer] [redacted] have agreed to place specific endorsements that clients qualify for on renewals. As you have described, a better wording may be "adding endorsements at renewal a client qualifies for".

Alpine is not required nor directed to add all endorsements a client may qualify for at renewal. Alpine has voluntarily made the decision to add endorsements as it is in a clients [sic] best interests.

June 20 and 22 2023:

There is no formal written portfolio contract or agreement, it is the process to add endorsements at renewals a client qualifies for no different than we than we agreed to increase liability limits from \$1M and \$2M at renewal.

June 23 2023:

Alpine is not required to add endorsements at renewal but as stated Alpine and [the Insurer] [redacted] have agreed to add endorsements as it is in a clients [sic] best interest.

July 4 2023:

No formal portfolio agreements/contracts.

[The Insurer] [redacted] does not have any formal agreements in place with Alpine Insurance with regards to portfolio additions.

[...]

B: There is no written agreement or addendum to our contract between [the Insurer] [redacted] and Alpine directing Alpine to add endorsements at renewal. [The Insurer] [redacted] does the renewals and forwards them directly to the clients on our behalf.

[...]

The Council was concerned by this explanation as it is unclear and did not properly explain why the Agency first stated that there was a formal portfolio agreement with the Insurer. These statements clearly evidence that the initial statements made by the Agency were in fact, false.

The Council took particular note of various statements made by the Agency in their August 16, 2023, letter to the AIC:

[...]

Alpine's determination of clients' best interest is to protect our clients for claims and premium increases with specific endorsements they are eligible and qualify for and do not have on their policy. The coverage is dependent on factors such as becoming eligible for auto accident forgiveness or conviction waiver, economic and claims conditions. As auto liability limits were being exceeded in recent years, an increase to \$2,000,000 was implemented and recommended on renewal and new policies.

[...]

The [Insurer] [redacted] Personal lines policy renewal process is automated by their systems and generates approximately 45 days prior to renewal, including the addition of endorsements that clients qualify for, unless there is [Insurer] [redacted] underwriting intervention.

[...]

As the renewal process is automated, we don't give direction to [the Insurer] [redacted] to add the endorsements on a case-by-case basis, unless our broker management system notes prompt us on a specific policy. Alpine would not request the deletion of endorsements unless directed by our client.

[...]

The above statements made it clear that the Agency made a decision to unilaterally add endorsements to their clients' policies without the informed consent of those clients.

The Council also noted statements from the February 28, 2024, email from the Insurer's Legal Counsel:

[...]

- [The Insurer] [redacted] does not control or dictate the operations of brokerages, regardless of whether they are owned by [the Parent Company] [redacted].
- [...]
- Yes, if a brokerage's representative decides to add coverage(s) based on their clients' best interests, they can do so through a mass roll up at renewal or manually client by client.
- [...]
- If a brokerage's representative requests that coverage(s) be added at renewal, they will have the option to continue the additions for multiple renewal periods (until they ask [the Insurer] [redacted] to stop) or limit it to a 1-year period.

[...]

The above statements further clarified that the Agency had the ability to add endorsements to client policies without the knowledge and/or informed consent of those clients.

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.

Consumers who purchase insurance products expect that insurance agencies will act with the utmost good faith while carrying out their work.

Insurance agencies operate in a profession which necessitates placing the clients' interests first and foremost when determining policy coverage, including engaging in a discussion with clients on their insurance needs, informing clients of different insurance product options, and obtaining the full and informed consent of their clients. Clients have a right to be made aware of changes in their insurance policy coverage and have a right to execute the action of informed consent. If there was no responsibility on the insurance intermediary to seek the full and informed consent of their clients, then this would leave clients at risk of having products that are not suitable for them or that they do not want, and for paying increased premiums for insurance products that they did not consent to. Therefore, it is not unreasonable to expect a high standard of due diligence, honesty, and integrity be practiced by insurance intermediaries when making changes to their clients' insurance policies. The relationship between the agency and the client, and the agency 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 regarding their policies is not fully and properly disclosed to clients, and where they are not presented various options and given the opportunity to properly consent to any insurance policy changes.

As it related to Count 1, in light of the Agency's statements regarding their unilateral action taken to add endorsements to the Complainant's policies without the informed consent of the client, and the Complainant's previous requests to remove the endorsements from the Complainant's policies, 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 three (3) counts, the Agency's conduct was intentional, and it is fraud, deceit, dishonesty, untrustworthiness and/or misrepresentation as contemplated by s. 480(1)(a) of the Act.

As it related to Count 2, in light of the Agency's statements regarding their unilateral action taken to add endorsements to all client policies without the informed consent of the clients, and the inconsistencies in the Agency's statements regarding the existence of a formal portfolio agreement with the Insurer, 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 sixty-four thousand seven hundred and four (64,704) counts, the Agency'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.

In relation to Count 1, given the evidence that the Agency added endorsements to the Complainant's policies without the Complainant's informed consent, and continued to add endorsements on two more policy renewals without the Complainant's informed consent and after the Complainant had requested the removal of these endorsements during the prior renewal process, the Council orders that a civil penalty of \$5,000.00, per demonstrated offence, resulting in three (3) offences, equaling a total civil penalty of \$15,000.00 be levied against the Agency.

As it related to Count 2, given the evidence that the Agency added endorsements to all client policies in their book of business with the Insurer without the clients' informed consent, the Council orders that a civil penalty of \$3.00, per demonstrated offence, resulting in sixty-four thousand seven hundred and four (64,704) offences, equaling a total civil penalty of \$194,112.00 be levied against the Agency.

The Council therefore ordered that a total civil penalty of \$209,112.00, be levied against the Agency.

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 Agency has thirty (30) days in which to appeal this decision by filing a Notice of Appeal with the Office of the Superintendent of Insurance.

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

Date: January 22, 2025

[Original Signed By]

Amanda Sawatzky, 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: tbfi.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*