

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 Donald Kelloway
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council ("AIC") undertook a review of the Agent's Application for Agents Certificate of Authority dated January 8, 2013, during which review information came to light that indicated that the Agent had been acting as a life insurance agent while unlicensed;

AND WHEREAS the review established that the Agent had sold life insurance policies during the period from February 16, 2012 to and including January 13, 2013, without a valid and subsisting Certificate of Authority and that during that same period of time, the Agent was compensated for acting as an insurance agent by Great West Life Assurance Company ("Great West") and Canada Life Insurance Company of Canada ("Canada Life");

AND WHEREAS the Agent is aware of the opportunity to retain and instruct legal counsel with respect to the matters referred to in this Agreed Statement of Facts and Joint Submission;

NOW THEREFORE the Agent and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Agent makes the following admissions and submissions:
 - 1.1.1. The Agent is the holder of valid Certificates of Authority (Q and M-39715) to transact business as an Accident and Sickness ("A&S") and Life insurance agent and has been licensed since January 30, 1996 for both A&S and Life, other than for the period from February 16, 2012, to January 13, 2013;
 - 1.1.2. Agents Certificates of Authority for the sale of A&S and Life insurance were issued by the AIC to the Agent on January 14, 2013;
 - 1.1.3. The AIC received a fax from the Agent dated January 8, 2013, which confirmed that the Agent had acted as, and been compensated for acting as, an insurance agent since February 16, 2012;
 - 1.1.4. The AIC sent a letter to the Agent dated January 22, 2013, which requested details as to the number of insurance policies the Agent had sold between February 15, 2012 to and including January 14, 2013, as well as details in relation to the compensation he had received for doing so;

- 1.1.5. The Agent sent a letter to the AIC dated January 29, 2013 advising the AIC that he sold a total of 5 policies during the period of time he was unlicensed and received commission income in the amount of \$6510.70. The Agent explained that he thought he had renewed his licenses and his assistant also believed he had renewed his licenses online and “inadvertently handed copies of the 2011/2012 renewals to the region office administrator, who then believing they were also the 2012/2013 renewals,” submitted the documents to the insurance company. As a result they all thought he had renewed his licenses;
 - 1.1.6. The AIC sent a letter to Kathy Langford (“KL”), Ombudsman, with Great West and Canada Life dated February 4, 2013, which requested details regarding the amount of insurance policies sold and compensation received by the Agent;
 - 1.1.7. KL advised the AIC in a letter dated March 6, 2013, that the Agent sold 5 insurance policies and received \$6510.70 in compensation.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 452(2) of the Act, and consequently violated section 480 (1) (b) of the Act for unlicensed activity.
 - 3.0 The Agent and the Investigator jointly recommend to the Life Insurance Council (“Council”) that the Council approve this Agreed Statement of Facts and Joint Submission and resolve, dispose of and finally conclude this matter involving the Agent by approving a decision in the form annexed hereto as Schedule 1, which provides for a civil penalty in the amount of \$300.00 in accordance with the penalties prescribed in section 13 (1)(b) of the Certificate Expiry, Penalties and Fees Regulation, A.R. 125/2001.
 - 4.0 The Agent recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
 - 5.0 The Agent is aware of and acknowledges that upon receiving notification of the Council’s decision, the civil penalty specified in Schedule 1 must be paid within the time frames set out in section 480(4) of the Act.
 - 6.0 The Agent is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Agent waives his right to appeal this decision as set out in section 482 of the Act.
 - 7.0 The Agent waives any existing right he may have under the Act or otherwise to a hearing, review, judicial review or appeal of this matter.
 - 8.0 The Agent acknowledges that this Agreed Statement of Facts and Joint Submission may be referred to in this or any other proceeding under the Act, and in regulatory proceedings in other jurisdictions.
 - 9.0 The Agent recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Agent in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta this 3rd day of May 2013.

ALBERTA INSURANCE COUNCIL

PER:

Original signed by Trisha Lunt
Investigator

Dated at Red Deer, in the Province of Alberta, this 30th day of April 2013

Original signed by Donald Kelloway
Agent

In the presence of:

Original Signed by [AJ]
Signature of Witness

Original signed by [AJ]
Name of Witness (please print)

SCHEDULE 1

ALBERTA INSURANCE COUNCIL

IN THE MATTER OF THE INSURANCE ACT, R.S.A. 2000, Chapter I-3
(the "Act")

AND

IN THE MATTER OF DONALD KELLOWAY

(the "Agent")

DECISION of the LIFE INSURANCE COUNCIL

(the "Council")

WHEREAS the Investigator of the Alberta Insurance Council ("AIC") made a request for information in relation to an investigation being conducted by the AIC into the compensation of an unlicensed insurance agent, namely Donald Kelloway., from February 16, 2012 to and including January 13, 2013;

AND WHEREAS as a result of information received, the Investigator and the Agent entered into an Agreed Statement of Facts and Joint Submission, a copy of which is attached hereto;

AND WHEREAS pursuant to the Agreed Statement of Facts and Joint Submission, the Agent has agreed that he will pay a civil penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) and has acknowledged that the Council has the discretion to accept or reject that recommendation;

AND WHEREAS the Council considers that it would be in the public interest to approve the said Agreed Statement of Facts and Joint Submission;

IT IS ORDERED that:

1. The Agreed Statement of Facts and Joint Submission be accepted and is hereby approved; and
2. The Agent pay a fine of THREE HUNDRED DOLLARS (\$300.00) in accordance with the terms and conditions set out in this Agreed Statement of Facts and Joint Submission.

The attached Agreed Statement of Facts and Joint Submission was reviewed by the Council and a motion to approve this decision was made and carried at a properly conducted meeting of the Council on May 16, 2013. This motion was duly recorded in the minutes of that meeting.

Original signed by Doug Curtis
Chairman, Life Insurance Council