

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 Derrick Cunningham
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Agent's 2012/2013 Application for Agents Certificate of Authority dated December 10, 2012, during which review information came to light that indicated that the Agent failed to provide information required by the Minister on his 2008/2009 and 2009/2010 Applications for Certificate of Authority;

AND WHEREAS the review established that the Agent failed to disclose that he had declared bankruptcy in 2007 which he failed to disclose on his on his 2008/2009 and 2009/2010 applications dated January 29, 2008 and January 9, 2009, respectively;

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 a Certificate of Authority (M-200134) to transact business as a Life Insurance Agent and has been licensed since February 4, 2003;
 - 1.1.2. On December 17, 2012, the AIC received the 2012/2013 application for Certificate of Authority dated December 10, 2012 from the Agent, which contained the following question: "In the last ten years have you: (g) Been subject to proceedings in bankruptcy?" In response to that question, the Agent marked "YES," and included a copy of his Certificate of Discharge that showed the date of the bankruptcy as November 16, 2007. This was the first application on which the Agent disclosed that he had been subject to proceedings in bankruptcy;
 - 1.1.3. In response to a letter from the AIC dated March 1, 2013, the Agent sent a letter to the AIC dated March 15, 2013 explaining that the reason he did not disclose the bankruptcy was due to lack of attention "to what I was doing."

- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 467(c) of the Act, and consequently violated section 480 (1) (b) of the Act for failing to provide information required by the Minister on applications for certificates of authority.
- 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 the Agent's Certificate of Authority for Life Insurance will be suspended for a period of one week.
- 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 sanction specified in Schedule 1 will commence on August 14, 2013 and end on August 21, 2013. The Agent further acknowledges that pursuant to section 467 of the Act, the Agent must apply for reinstatement of his Life insurance Certificate of Authority before transacting any business following the period of suspension.
- 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 27 day of May, 2013.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Trisha Lunt, Investigator

Dated at St. Albert, in the Province of Alberta, this 29 day of May, 2013.

Original signed by
Derrick Cunningham, Agent

In the presence of:

Original signed by
Signature of Witness

Original signed by
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 DERRICK CUNNINGHAM

(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 Agent’s failure to provide the information required by the Minister on his 2008/2009 Application For Certificate of Authority dated January 20, 2008 and his 2009/2010 online renewal application submitted on January 9, 2009;

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 to a finding of guilt in relation to failing to disclose that he declared bankruptcy 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’s Certificate of Authority for Life Insurance be suspended for a period of one week 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 June 14, 2013, 2013. This motion was duly recorded in the minutes of that meeting.

Original signed by
Doug Curtis, Chairman, Life Insurance Council