

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 1028029 Alberta Ltd./Silver Zinc Motors
(the "Dealership")

As represented by
Leo Mak, Designated Individual,
(the "DI")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of the Dealership's licensing records, during which review information came to light that indicated that the Dealership had been acting as a restricted insurance agent while unlicensed;

AND WHEREAS the review established that the Dealership had sold equipment warranty related insurance policies during the period from November 1, 2012 to and including November 21, 2013, without a valid and subsisting Certificate of Authority and was compensated for acting as a restricted insurance agent;

AND WHEREAS the Dealership 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 Dealership and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Dealership through its DI makes the following admissions and submissions:
 - 1.1.1 The Dealership is the holder of a Certificate of Authority (2-5118341) to transact business as a Restricted Insurance Agent to sell equipment warranty and has been licensed since July 3, 2008, other than for the period from November 1, 2012 to and including November 21, 2013;
 - 1.1.2 Leo Mak is named as the Designated Individual on the equipment warranty Certificate of Authority held by the Dealership (the "DI");
 - 1.1.3 The DI sent a letter to the AIC that was attached to the Dealership's 2013/2014 Application for Restricted Agents Certificate of Authority, which confirmed that the Dealership had acted as, and been compensated for acting as, a restricted insurance agent;

- 1.1.4 The AIC sent a letter to the DI dated December 2, 2013, which requested details as to the number of equipment warranty insurance policies the Dealership had sold from November 1, 2012 to and including November 21, 2013, as well as details in relation to the compensation it had received for doing so;
 - 1.1.5 The AIC received a letter dated December 4, 2013 from the DI advising the AIC that the Dealership sold a total of 18 policies and the Dealership received commission income in the amount of \$17,218.00. The DI explained that the Dealership did not receive notification from the Dealership's prior sponsor that the prior sponsor had ceased sponsoring the Dealership's certificate of authority to sell equipment warranty insurance policies and as a result the Dealership was not aware that their certificate of authority had been suspended;
 - 1.1.6 In response to a letter from the AIC dated January 8, 2014, Gabe Czar ("GC"), Senior Administrator, Compliance with American Bankers Insurance Company of Florida sent an email dated January 24, 2014 to the AIC, which confirmed that the Dealership sold a total of 18 policies and received commission income in the amount of \$17,218.00.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Dealership contravened section 452(1) of the Act, and consequently violated section 480 (1) (b) of the Act for acting as a restricted insurance agent during a period of time the Dealership was unlicensed.
- 3.0 The Dealership and the Investigator jointly recommend to the General 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 Dealership 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, AR 125/2001.
- 4.0 The Dealership recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Dealership 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 Dealership is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Dealership waives its right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Dealership waives any existing right it may have under the Act or otherwise to a hearing, review, judicial review or appeal of this matter.

8.0 The Dealership 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 Dealership recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Dealership in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta this 2 day of June 2014.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Trisha Lunt, Investigator

Dated at the City of Edmonton, in the Province of Alberta, this 20 day of June 2014.

Original signed by
Leo Mak, Designated Individual

In the presence of:

Original signed by
Signature of Witness

Original signed by
Name of Witness (please print)

SCHEDULE 1

ALBERTA INSURANCE COUNCIL
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DECISION OF
The General 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 restricted insurance agent, from November 1, 2012 to and including November 21, 2013;

AND WHEREAS as a result of information received, the Investigator and the DI 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 DI has agreed that the Dealership will pay a civil penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) in relation to the Dealership being compensated for acting as a restricted insurance agent during the period of time it was unlicensed 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 Dealership 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: July 8, 2014

Original signed by
Amanda Sawatzky, Chair
General Insurance Council