

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 Monica Nistor
(the "Agent")

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

This case involved an allegation pursuant to Section 481(2) of the Act. Specifically, it is alleged that the Agent failed or refused to provide information and documentation requested by an AIC investigator within the time specified in a Demand for Information (the "Demand"). In so doing, it is alleged that she contravened s. 481 of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated September 22, 2014 (the "Report"). The Report was forwarded to the Agent for her review and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. The Agent did not adduce any further evidence.

The Agent was licensed from January 28, 2011 to November 4, 2013 for accident and sickness ("A&S") insurance and life insurance. On November 4, 2013, the AIC received an "Agency Termination Notice" from the Agent's recommending insurer (the "Sponsor") that indicated it was terminating its recommendation of the Agent's certificate of authority.

Almost three years later, the Sponsor wrote to the AIC (December 9, 2013) to alert the AIC of certain information it had uncovered after reviewing the Agent's records. The Sponsor also indicated that it had terminated its producer contract with the Agent for cause on effective October 16, 2013. Included with the letter was a copy of a letter dated December 6, 2013 from the Sponsor to the Agent in which the Sponsor informed the Agent of its complaint to the AIC.

On December 19, 2013, an AIC investigator called the Agent and left a voice message on her cell phone to that requested the Agent call the investigator. The investigator called the Agent again on May 20, 2014 left a further message requesting that the Agent return the investigator's call. The message service on the cell phone identified the Agent's name.

The investigator sent the Demand to the Agent on July 8, 2014. The Demand requested that she provide information and documentation referenced the formal demand for information provisions pursuant under ss. 481(1) and (2) of the Act. The Demand requested a response on or before July 25, 2014 and advised that failure to respond was an offence under the Act.

Canada Post documents verify the Demand was successfully delivered on July 11, 2014. Once again, the Agent did not respond.

Decision of the Council

As noted in similar cases before, the AIC operates under a delegation from the Minister of Treasury Board and Finance. Through this delegation, the AIC has authority to investigate complaints against holders and former holders of insurance agent certificates of authority. Pursuant to the Minister of Finance Directive No. 05/01, the Minister also delegated his powers under s. 481 to the AIC. Section 481 states that "[t]he Minister may direct the holder or former holder of a certificate of authority to provide to the Minister within a reasonable period of time specified by the Minister relating to the matters in section 480(1)." Subsection 2 states that the "...person served with the direction who has the information must provide the information in accordance with the direction."

The evidence is clear that the AIC investigator was investigating allegations raised by the Sponsor and these allegations fall squarely within the bounds of s. 480(1). In furtherance of this investigation, the investigator sent the Demand to the Agent and it was successfully delivered. Given the fact that she did not respond in accordance with the Demand we find that she breached s. 481 of the Act.

In terms of the applicable sanction, the public relies on the AIC to investigate complaints and the Act requires that holders and even former holders such as the Agent provide information when called upon to do so. Therefore, the public is not well-served in the event that agents simply ignore Demands like those made in this case. Given the facts in their entirety, we order that a civil penalty in the amount of

\$1000.00 be levied against the Agent pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001. The civil penalty must be paid within thirty (30) days of receiving this notice. In the event that the civil penalty is not paid within thirty (30) days, interest will begin to accrue and the Agent cannot hold a certificate of authority until payment of the penalty and any outstanding interest is made. 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: January 9, 2015

Original signed by

Kenneth Doll, 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.

Address for Superintendent of Insurance:

Superintendent of Insurance
Alberta Finance
402 Terrace Building
9515-107 Street
Edmonton, Alberta T5K 2C3