

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 Aman Sabharwal
(the "Agent")

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

This case involved an allegation pursuant to s. 481(2) of the Act. Specifically, it is alleged that the Agent failed or refused to provide information and documentation requested by the AIC within the time specified in the demand for information. In so doing, it is alleged this constitutes an offence pursuant to s. 481(2) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated November 4, 2014 (the "Report"). The Report was forwarded to the Agent for his 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 held a certificate of authority authorizing him to act as a general insurance agent. He first held such a certificate in 1998. The Agent was also previously licensed from December 31, 2007 to June 2, 2014 for accident and sickness ("A&S") and life insurance. He held an adjuster's certificate of authority between March 22, 2006 and March 12, 2007. He no longer holds a certificate of authority.

By letter dated June 27, 2014 "LM" advised the AIC, on behalf of State Farm Insurance Companies ("State Farm"), that the Agent had resigned from State Farm effective May 31, 2014. LM further advised the termination was as a result of a State Farm investigation into an insurance claim that the Agent submitted and a possible misrepresentation that he made. LM wrote that, as a result of their review, "State Farm hereby reports that, in its view, reasonable grounds may exist to believe that [the Agent] is not suitable to carry on business as an Insurance Agent."

After being released by State Farm the Agent joined an insurance agency. On July 14, 2014, an AIC investigator wrote to the Agent at his new agency and requested information in regard to State Farm's complaint. This and other subsequent correspondence was not retrieved by the Agent as his license there was terminated. He became licensed with yet another insurance agency on September 18, 2014.

In September of 2014, a different AIC official became responsible for this file and she wrote to the Agent on September 30, 2014. This letter was addressed to the agency that he joined on September 18, 2014 and included copies of letters that were sent by the initial investigator on July 14, 2014 and August 19, 2014. The September 30, 2014 letter was sent by way of Demand for Information pursuant to ss. 481(1) and (2) of the Act. It made reference to the fact that he could be subject to sanctions if he failed to respond in accordance with the terms set out in the Demand by October 15, 2014.

The Report contained evidence indicating that the Demand was successfully sent to the Agent's business address on October 2, 2104. The Agent did not respond.

Discussion

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 in the direction any information specified by the Minister relating to the matters in section 480(1)." Subsection 2 states that the "...A person served with a direction ... who has the information must provide the information in accordance with the direction."

The evidence is clear that the AIC's investigation related to an alleged misrepresentation that the Agent made to State Farm. The Demand was properly made to the business address on his certificate of authority and the Agent did not comply. Therefore, we conclude that the Agent breached s. 481 of the Act and contravened a section of the Act as contemplated in s. 480(1)(b).

In terms of the applicable sanction, the public relies on the AIC to investigate complaints and the Act requires that holders and former license holders provide information when called upon to do so.

Without this tool, the AIC would not be able to perform its important public protection functions. 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 accrue at the prescribed rate until such time as it is paid. 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Date: March 26, 2015

Louise Clare, Chair
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.

Address for Superintendent of Insurance:

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