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 that 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 6, 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 first held a general insurance agent's certificate of authority in 1998. He was also licensed from December 31, 2007 to June 2, 2014 for accident and sickness ("A&S") and life insurance. He also held an adjuster's certificate of authority from March 22, 2006 to March 12, 2007.

The AIC undertook an investigation of the Agent's activities as a result of emails that two insurance agents ("DA" and "RT") sent to the AIC on July 22, 2014. The Agent had been employed at the same agency as DA and RT and their emails raised concerns about the Agent's conduct on various files. DA further noted that she terminated the Agent's license on July 17, 2014.

The AIC opened a complaint file and an investigator wrote to the Agent on July 28, 2014 to inform the Agent of the allegations and to ask that he provide information in response. Unfortunately, the investigator

addressed this and subsequent correspondence to the Agent's previous business address. Not surprisingly, he did not receive this correspondence because DA had terminated his employment and he was no longer affiliated with DA's and RT's agency. In the meantime, the Agent subsequently became licensed with a new agency on September 18, 2014.

A new investigator took over the file and wrote to the Agent at his new agency on September 30, 2014. The new investigator attached previous unanswered correspondence that the former investigator had sent and she requested that the Agent provide the information on or before October 15, 2014. The September 30, 2014 letter took the form of a Demand for Information under ss. 481(1) and (2) of the Act and it advised the Agent that it was an offence to not comply. The Report contained evidence that the letter was successfully delivered to the Agent's new agency on October 2, 2014. The Agent did not respond as required in the Demand.

Discussion

The AIC operates under a delegation from the Minister of Treasury Board and Finance that authorizes the AIC 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 complaints raised issues of possible misrepresentation, fraud, deceit, dishonesty or untrustworthiness as set out in s. 480(1)(a) of the Act. In furtherance of this investigation, the new investigator sent the Demand to the address at which the Agent was licensed. Given the fact that he did not respond in accordance with the Demand, we find that he breached s. 481 of the Act and, in so doing, 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 holders of licenses provide information when called upon to do so. Therefore, the public is not well-served when 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 penalty is not paid within thirty (30) days, interest will begin to accrue at the applicable prescribed rate. 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

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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