

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 Hebert Enterprises Ltd./Hebert's Motor Sports
(the "Dealership")

As represented by
Designated Individual
Gerry Hebert
(the "DI")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (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 sold 54 equipment warranty insurance policies during the period from June 3, 2011 to and including March 1, 2014, without a valid and subsisting Certificate of Authority and was compensated for acting as a restricted insurance agent by American Bankers Insurance Company of Florida that carry on business in Canada under the name of Assurant Solutions ("AS");

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 DI 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 was the holder of a Certificate of Authority (29-2875845) to transact business as a Restricted Insurance Agent and has been licensed since May 28, 2007, other than for the period from November 1, 2008 to January 23, 2012 and February 28, 2014 to date ("unlicensed period");
 - 1.1.2 On October 30, 2014, the AIC received an Application for Restricted Insurance Agents Certificate of Authority to sell credit related insurance from the Dealership. The application was dated October 27, 2014;

- 1.1.3 The AIC emailed the Dealership on July 17, 2015 to verify if besides credit related insurance, the Dealership had sold any equipment warranty insurance policies while it was unlicensed and if so to provide details relating to the sales and the compensation it had received for doing so;
 - 1.1.4 The DI confirmed that the Dealership had sold 54 equipment warranty insurance policies and was compensated \$29,319.50 by AS for these sales when unlicensed. The breakdown is as follows: 10 sales in 2011 with compensation of \$5,100.00; 29 sales in 2012 with compensation of \$15,166.50 and 15 sales in 2013 with compensation of \$9,053.00. These figures were also confirmed by the senior director of compliance at AS;
 - 1.1.5 The DI advised that the Dealership failed to renew their license as they had made a payment for their credit related insurance license and did not realize they should have paid for both licenses. The DI is now aware that both the credit and the equipment insurance licenses need to be renewed annually, or they could potentially be fined \$1,000 per policy sold when unlicensed. The Dealership is in the process of getting relicensed to sell equipment warranty insurance.
- 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 unlicensed activity.
- 3.0 The DI 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 \$1,800.00 (\$600 for each of the past 3 calendar years where the Dealership was unlicensed), in accordance with the penalties prescribed in section 13 (1) (b) of the Certificate Expiry, Penalties and Fees Regulation, A.R. 125/2001.
- 4.0 The DI 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 Calgary, in the Province of Alberta this 25th day of

January 2016.

ALBERTA INSURANCE COUNCIL

PER:

Original Signed By
Roy Dias, Investigator

Dated at the City of High Prairie, in the Province of Alberta, this 08 day of

February 2016.

Original Signed By
Gerry Hebert, Designated Individual

In the presence of:

Witnessed
Signature of Witness

Name of Witness (please print)

SCHEDULE 1**ALBERTA INSURANCE COUNCIL
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Designated Individual
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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 Dealership to sell equipment warranty related insurance policies while unlicensed;

AND WHEREAS as a result of information received, the Investigator and the Dealership 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 ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800.00) 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 ONE THOUSAND EIGHT HUNDRED DOLLARS (\$1,800.00), in accordance with the terms and conditions set out in the 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: March 2, 2016

Original Signed By

Louise Clare, Chair
General Insurance Council