

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 Equine Insurance Underwriters Ltd.
(the "Agency")

As represented by
Designated Representative
John Carlton
(The "DR")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Agency's licensing and sales records, based on information that indicated that the Agency was acting without a valid and subsisting Certificate of Authority;

AND WHEREAS the review established that the Agency acted without a valid and subsisting Certificate of Authority during the period from July 1, 2015 to July 30, 2015 ("unlicensed period"), and was compensated for acting as a General Insurance Agency by Everest Insurance Company of Canada ("Everest");

AND WHEREAS it was discovered during the investigation that the Agency undertook its sales in Alberta through an unlicensed individual named Barbara Hope ("BH") from its Vancouver office;

AND WHEREAS the Agency 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 DR and the Investigator agree as follows:

1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Agency through its DR makes the following admissions and submissions:

1.1 The Agency is the holder of a Certificate of Authority (7-10261487) to transact business as a General Insurance Agency and has been licensed since March 4, 2011, other than for a brief period in 2011 and the above unlicensed period;

- 1.2 The DR is the holder of a Certificate of Authority (141732) and has been licensed since July 22, 2011 except for the unlicensed period.
- 1.3 On July 29, 2015, the AIC received General Insurance Applications from the DR to reapply as the DR for the Agency. The AIC advised the DR that he had been late in renewing his license.
- 1.4 The AIC wrote to the Agency on August 13, 2015 to verify if the Agency had sold any insurance policies during the unlicensed period.
- 1.5 The Agency responded that BH had sold 9 policies during the unlicensed period for which the Agency was compensated \$1,959.38 by Everest. The DR advised that the Agency went unlicensed because it became a wholly owned subsidiary of Highcourt Partners Limited ("Highcourt") earlier in the year. Since Highcourt already had a license to operate in Alberta, the DR did not renew the Agency's license under the mistaken belief that the Agency could operate under Highcourt's license. When management at the Agency realized that they needed a separate license they applied for renewal of the earlier license but had missed the deadline of June 30 to have their license renewed on time.
- 1.6 The Chief Financial Officer ("CFO") of the Agency has confirmed that he is now aware of the need for the Agency to have its license renewed annually and will ensure that the Agency does not miss the licensing renewal deadline in future. In the event this reoccurs the DR is aware the potential fine could be as high as \$1,000 per policy sold when unlicensed.
- 1.7 On September 3, 2015 the AIC wrote to Everest to verify the number of policies the Agency had been compensated for selling in the unlicensed period and the compensation it had paid the Agency. The information provided by Everest confirmed that the Agency through BH had sold 9 policies. The Agency advised the investigator that BH was compensated for her work by the Agency in the form of an annual salary of \$74,100 for each year from 2013 to 2015.
- 1.8 When queried as to how the Agency conducted its insurance sales activities, the CFO advised the Investigator that BH whose work title was "Senior Underwriter" was responsible for interacting with insurance brokerages and transmitting insurance applications to Everest. The CFO also said that the Agency acquired this operation in or around September 2014 and did not make any changes to its licensing procedures. BH is a licensed insurance agent in BC. The DR felt that BH did not need to possess a license in Alberta since BH's role was essentially that of an "order taker". The DR is now aware that BH needs to be licensed as her job functions fall under the definition of insurance agent set out in the Insurance Act.

- 1.9 The Agency is in the process of applying to the AIC for BH's license. The Agency is aware that the maximum fine possible for any further occurrence of unlicensed activity is \$1,000 for each policy sold by an unlicensed individual and compensated by the Agency.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agency contravened section 499(1) of the Act, and consequently violated section 480 (1) (b) of the Act for compensating an unlicensed individual for acting as an insurance agent when she did not hold a valid and subsisting certificate of authority to do so. This is the first such offence of this Agency.
- 3.0 The DR 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 Agency 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 years) for compensating an unlicensed individual, 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 DR recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Agency 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 Agency is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Agency waives its right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Agency 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 Agency 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.

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SCHEDULE 1

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

WHEREAS the Investigator of the AIC made a request for information in relation to an investigation being conducted by the AIC into the Agency compensating an unlicensed individual for the sale of general insurance products;

AND WHEREAS as a result of information received, the Investigator and the DR 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 DR has agreed that the Agency 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 Agency 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: February 25, 2016

Original Signed By
Louise Clare, Chair
General Insurance Council