

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 Bear Creek Funeral Home
(the "Restricted Agent")

As represented by
Designated Individual Douglas Friesen
(the "DI")

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

This case involved an allegation pursuant to s. 452(1) of the Act. Specifically, it is alleged that the Restricted Agent acted as an insurance agent for sales of funeral related ("FR") insurance during a period of time in which it did not hold a valid and subsisting certificate of authority to do so. In so doing, it is alleged that this constitutes an offence pursuant to s. 452(1) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated November 16, 2015 (the "Report"). The Report was forwarded to the DR for review and to allow the Agency to provide the Council with any further evidence or submissions by way of Addendum. The DI signed the Report on November 19, 2015 and did not adduce any further evidence. The Restricted Agent is the holder of a restricted insurance agent's certificate of authority for the sale of FR insurance and it first obtained a certificate on October 13, 2013. Its certificate of authority expired on June 30, 2014 and the Restricted Agent did not submit a renewal application. It obtained a new certificate of authority on August 4, 2015.

The Restricted Agent submitted a Form 5 Application for a restricted agent certificate of authority (the "Application") that was signed and dated June 29, 2015. By letter dated July 13, 2015 the DI advised the AIC that the Restricted Agent acted as a restricted insurance agent during the period in which it was

not licensed. He also indicated that he missed “registration” due to an oversight and he was not aware the license had not been renewed.

The Investigator wrote to the DI on September 9, 2015 and requested information and documentation. The DI responded by letter with accompanying attachments dated September 10, 2015. In his letter the DI advised that the Restricted Agent received its FR insurance license in 2013 and that it continued to sell insurance until he was notified by their “pre-need management company” on June 26, 2015 that their license would expire on June 30, 2015. The DI further advised that on June 29, 2015 he was informed by the AIC that his license expired in 2014 and that he would need to submit a Form 5 application and a letter confirming whether he was compensated for selling insurance.

The Investigator wrote to an Assurant Life official (“CA”) on September 15, 2015 and requested information and documentation as to the Restricted Agent’s insurance agent activities during the period in which it was not licensed. In response, a different Assurant Life official (“MM”) responded by way of letter dated September 30, 2015. In this letter, MM indicated that Assurant Life was not aware that the Restricted Agent had failed to renew its license until it received the letter from the Investigator. MM also confirmed the DI’s statement that the Restricted Agent sold 18 policies during the unlicensed period and earned commission of \$6103.81.

Decision of the Council

From the evidence in the Report, it is clear that the Restricted Agent’s certificate of authority to act in the capacity of a FR insurance agent expired on June 30, 2014. It is equally clear that the Restricted Agent continued to accept and process applications despite the fact that its certificate of authority expired and this is admitted by the Restricted Agent. Therefore, we find that the Restricted Agent breached s. 452(1) of the Act and that it contravened a section of the Act as contemplated in s. 480(1)(b).

As to the applicable sanctions, we have the ability to levy a civil penalty in an amount not exceeding \$1,000.00 pursuant to ss. 480(1)(b) of the Act and 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001 per offence. We could also order that the Restricted Agent’s certificate of authority be suspended or revoked. Given the fact that this is the Restricted Agent’s first contravention of the Act we are prepared to find the Restricted Agent guilty of one offence under the Act rather than

one for each of the 18 policies that it sold. While we do not believe that a license suspension or revocation is warranted in the circumstances we order that a civil penalty in the amount of \$450.00. 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, the Restricted Agent's certificate of authority will be automatically suspended pursuant to s. 480(4) of the Act. Pursuant to s. 482 of the Act (copy enclosed), the Restricted 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.

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: February 24, 2016

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