

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 William David Gadsby
(the "Agent")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Agent's 2013/2014 Form 1 Applications for Agents Certificate of Authority for Accident and Sickness ("A&S") and Life Insurance, received on September 26, 2013 and dated September 9, 2013, during which review information came to light that indicated that the Agent failed to provide information required by the Minister on his 2011/2012 and 2012/2013 online General Insurance renewal applications and on his 2013/2014 Form 2 Application for General Insurance Agents Certificate of Authority;

AND WHEREAS the review established that the Agent failed to disclose that he had declared bankruptcy in July 2011 on his 2011/2012 online General Insurance renewal application submitted on October 19, 2011, his 2012/2013 online General Insurance renewal application submitted on October 4, 2012, and on his Form 2 Application for General Insurance Agents Certificate of Authority received on September 10, 2013 and dated September 9, 2013;

AND WHEREAS the Agent 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 Agent and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Agent makes the following admissions and submissions:
 - 1.1.1 The Agent is the former holder of Certificates of Authority (M, Q and I-120134) to transact business as a Life, A&S and General Insurance Agent and was licensed from at least September 15, 2006 to November 4, 2013 for Life, A&S, and General Insurance;
 - 1.1.2 On September 26, 2013, the AIC received the 2013/2014 Life and A&S Form 1 Applications for Agents Certificate of Authority dated September 9, 2013 from the Agent, which contained the following question: "In the last ten years have you: g) Been subject to proceedings in bankruptcy?" In response to that question, the Agent marked "YES", and included a letter to the AIC, which advised that he declared bankruptcy in July of 2011 and that he has not disclosed it until now as he was too

embarrassed. These were the first applications on which the Agent disclosed that he had been subject to proceedings in bankruptcy;

- 1.1.3 In response to a letter from the AIC dated September 27, 2013, the AIC received an e-mail dated October 1, 2013, from the Agent's recommending insurer for his Life and A&S Certificates of Authority, which indicated the Agent filed for bankruptcy on July 25, 2011, but had not yet been discharged;
 - 1.1.4 In response to a letter from the Investigator dated October 25, 2013, the Agent sent a letter to the Investigator dated November 1, 2013, explaining his financial problems began in 2007 with the purchase of his townhouse and that he eventually declared bankruptcy in July of 2011. The Agent explained that he was embarrassed about declaring bankruptcy and that he was afraid he would lose his job with his agency if he disclosed his bankruptcy. The Agent advised that his approximate date of discharge is August of 2014.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened section 467(1)(c) of the Act, and consequently violated section 480(1)(b) of the Act for failing to provide information required by the Minister on the Applications for Certificates of Authority.
- 3.0 The Agent 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 Agent by approving a decision in the form annexed hereto as Schedule 1, which provides for a civil penalty in the amount of \$250.00 for each of the 2011/2012 and 2012/2013 online renewal applications, and \$250.00 for the 2013/2014 Form 2 Application for General Insurance Agents Certificate of Authority for a total civil penalty of \$750.00 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 Agent recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Agent 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 Agent is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Agent waives his right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Agent waives any existing right he may have under the Act or otherwise to a hearing, review, judicial review or appeal of this matter.
- 8.0 The Agent 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 Agent recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Agent in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta this 15 day of
May 2014.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Bernie Van Brabant, Investigator

Dated at the City of Calgary, in the Province of Alberta, this 8 day of
June 2014.

Original signed by
William David Gadsby, Agent

In the presence of:

Original signed by
Signature of Witness

Original signed by
Name of Witness (please print)

SCHEDULE 1

ALBERTA INSURANCE COUNCIL
(the "AIC")

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And

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(the "Agent")

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 Agent's failure to provide the information required by the Minister on his 2011/2012 and 2012/2013 online renewal applications submitted on October 19, 2011 and October 4, 2012, respectively and on his Form 2 Application for General Insurance Agents Certificate of Authority dated September 9, 2013;

AND WHEREAS as a result of information received, the Investigator and the Agent 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 Agent has agreed to pay a civil penalty in the amount of TWO HUNDRED AND FIFTY DOLLARS (\$250.00) for each of the 2011/2012 and 2012/2013 online renewal applications and the 2013/2014 Form 2 Application for General Insurance Agents Certificate of Authority for a TOTAL civil penalty of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00) in relation to failing to disclose that he declared bankruptcy 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 Agent pay a total fine of SEVEN HUNDRED AND FIFTY DOLLARS (\$750.00), 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 Council. This motion was duly recorded in the minutes of that meeting.

Date : July 8, 2014

Original signed by
Amanda Sawatzky, Chair
General Insurance Council