

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 AutoLife Global Corp.
(the “Dealership”)

As represented by Jean-Paul Demeria
Designated Individual,
(the “DI”)

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 Dealership failed or refused to provide information requested by the AIC in a demand for information sent by the AIC, contrary to ss. 481(1) and (2) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated September 6, 2013 (the “Report”). The Report was forwarded to the DI for review and to allow the Dealership to provide the Council with any further evidence or submissions by way of Addendum. The DI did not adduce any further evidence on the Dealership’s behalf.

The Dealership is the holder of a Restricted Insurance Agent’s Certificate of Authority to credit-related insurance and has been licensed in this capacity since May 10, 2012. The DI has held the position of designated individual since May 10, 2012. It is not, however, licensed to sell equipment warranty insurance.

On May 27, 2013 the AIC received a letter of complaint from two of the Dealership’s clients (“PB and “DB”, collectively referred to as the “Clients”). The Clients’ complaint related to an equipment warranty

that they purchased from the Dealership. On June 11, 2013, the AIC sent a letter to the DI that requested the DI provide the AIC with certain information.

As the DI did not respond the AIC sent a demand letter via registered mail to the DI. This demand letter was sent pursuant to sections 481 (1) and (2) of the Act. That letter was not delivered to the DI as the letter was not picked up at Canada Post's office and was returned to the AIC.

On July 16, 2013, the Investigator telephoned the DI to confirm that both letters were sent to the correct address. The DI confirmed that the address on both letters was correct. The DI stated that he had not received those letters. The DI provided the investigator with an email address to forward the above-noted letters to him. On July 16, 2013, the AIC sent an email to the DI requesting a response to the two letters dated June 11, 2013 and June 27, 2013. The DI and Dealership did not respond. Given this, the AIC sent the DI another demand letter via registered mail pursuant to sections 481 (1) and (2) of the Act. Once again, the DI did not retrieve the letter.

On August 19, 2013, the AIC sent an email to the DI advising the DI that numerous pieces of correspondence had been sent to him and that he did not retrieve or respond to any of them. Surprisingly, the DI emailed the investigator on August 23, 2013 and asked "...what is it going to take to resolve this issue?"

The investigator responded by email sent to the DI on August 23, 2013. In this email the investigator told the DI that she required a response to the specific questions set out in the original communication to him dated June 11, 2013. On August 26, 2013 the DI sent an email to the AIC, which stated "I am not sure what you want in response... just give me a brief idea of what you need." The DI did not respond in accordance with the response dates required in the Demand.

Discussion

The AIC operates under a delegation from the Minister of Treasury Board & Finance. Through its delegation, the AIC has authority to investigate complaints against holders and former holders of insurance agent certificates of authority. Pursuant to 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 “...person served with a direction ... who has the information must provide the information in accordance with the direction.”

In our view, it is clear that the AIC was investigating whether or not the Dealership had been compensated for selling equipment warranty insurance during a period in which the Dealership was not authorized to act as an insurance agent. As such, the investigation falls squarely within the bounds of s. 480(1) of the Act. In furtherance of this investigation, the investigator sent the demand to the DI at his place of business asking that he provide certain information. It is equally clear that he did not respond to the demand. As such, we find that the Dealership failed to respond as required by s. 481 and thereby 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 even former holders provide information when called upon to do so. Acting as an insurance agent is a privilege that is afforded to under the provisions of the Act. With that privilege come certain obligations and one of these is to provide the AIC with information when called upon to do so. In this case, the DI simply ignored the demand and did not provide responsive answers to the very simple and specific questions that the investigator posed. Pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001, we have the ability to levy a civil penalty of up to \$1,000.00. In light of all of the evidence, we order that a civil penalty of \$1000.00 be levied against the Dealership.

We also have the ability to suspend certificates of authority for a period of time or revoke them for one year. In this case we are troubled by the attitude the DI displayed in the course of the investigation. The restricted licensing regime was implemented to allow car dealerships and other non-insurance businesses to sell limited types of insurance that can be offered incidentally to the products that they normally sell. Given the restricted types of insurance that can be sold under this type of license, these agents do not have to take exams or obtain continuing education to be afforded the privilege of acting as insurance agents. However, they are obligated to respond to demands for information that are made in the course of pursuing the AIC’s public protection mandate. Given the circumstances in this case, we order that the Dealership’s certificate of authority be suspended for a period of 3 months. The suspension shall commence on the 8th day after the mailing of this Decision.

The Dealership has 30 days to pay the civil penalty noted above. In the event that the civil penalty is not paid within thirty (30) days the Dealership's certificate of authority will be automatically suspended and it cannot be reinstated until it is paid.

Pursuant to s. 482 of the Act (copy enclosed), the Dealership 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: August 19, 2014

Original signed by Jean Gauvreau for:

Amanda Sawatzky, 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