

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 1801157 Alberta Ltd./Stadium Nissan
(the "Dealership")

As represented by
Designated Individual, Andrew Franiel
(the "DI")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of the Dealership's application for a Restricted Agents Certificate of Authority dated March 1, 2014, 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 had sold equipment warranty insurance policies during the period from March 1, 2014 to April 9, 2014, without a valid and subsisting Certificate of Authority, and that during that same period of time, the Dealership was compensated for acting as a restricted insurance agent by First Canadian Protection Plans;

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 Dealership 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 is the holder of a Certificate of Authority #10938851 to transact business as a restricted insurance agent to sell Equipment Warranty policies, and has been so licensed since April 10, 2014;
 - 1.1.2 Andrew Franiel is named as the Designated Individual on the Restricted Certificate of Authority held by the Dealership (the "DI");
 - 1.1.3 On July 16, 2014, the AIC received an email from the DI who explained that 1801157 Alberta Ltd. purchased Stadium Nissan Inc. effective March 1, 2014. Stadium Nissan Inc. had been operating under a valid Certificate of Authority until the effective date of the sale, at which time 1801157 Alberta Ltd. took over the sales of equipment warranty policies without first obtaining a Restricted Certificate of

Authority to do so. On March 26, 2014, it was brought to the attention of the Dealership that they required a Certificate of Authority in their name to sell the equipment warranty policies, and they immediately ceased all sales activity until their license was issued on April 10, 2014;

1.1.4 On June 6, 2014, the AIC sent the DI a letter requesting confirmation as to whether or not the Dealership had been acting as a restricted agent during the period in question, and if so, to confirm the details as to the number of equipment warranty insurance policies the Dealership had sold, as well as the details in relation to the compensation it had received for doing so;

1.1.5 In response to a letter from the AIC dated June 6, 2014, the AIC received a letter from the DI on July 7, 2014, which confirmed that the Dealership had acted as, and been compensated for acting as, a restricted insurance agent between March 1, 2014 and March 26, 2014. The DI advised that the Dealership sold 33 equipment warranty policies and received \$36,930.60 in compensation;

1.1.6 In an email to the AIC from First Canadian Group of Companies dated April 10, 2014, it was confirmed that the Dealership sold 33 equipment warranty policies from March 1, 2014 to March 26, 2014, and was compensated \$36,930.60.

- 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 Dealership 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 \$300.00 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 Dealership 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 18 day of August 2014.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Carrie Graham, Investigator

Dated at Calgary, in the Province of Alberta, this 11 day of August 2014.

Original signed by
Andrew Franiel, Designated Individual

In the presence of:

Original signed by
Signature of Witness

Original signed by
Name of Witness (please print)

SCHEDULE 1ALBERTA 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 1801157 Alberta Ltd./Stadium Nissan
(the "Dealership")As represented by
Designated Individual, Andrew Franiel
(the "DI")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 sales of equipment warranty policies by an unlicensed restricted insurance agent, namely 1801157 Alberta Ltd./Stadium Nissan, from March 1, 2014 to April 9, 2014, and was compensated for doing so;

AND WHEREAS as a result of information received, the Investigator and the DI 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 THREE HUNDRED DOLLARS (\$300.00) in relation to the Dealership being compensated for acting as a restricted insurance agent during the period of time it was unlicensed 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 THREE HUNDRED DOLLARS (\$300.00) in accordance with the terms and conditions set out in this 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: September 9, 2014

Original signed by, Thom Young for:
Amanda Sawatzky, Chair
General Insurance Council