

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 Jane Keith
(the "Agent")DECISION
OF
The Life Insurance Council
(the "Council")

This case involves allegations pursuant to s. 509(1)(a) of the Act. Specifically, it is alleged that the Agent falsely declared the completion of continuing education ("CE") courses, when, in fact, the CE courses had not been completed. In so doing, it is alleged that the Agent made false or misleading statements as contemplated in s. 509(1)(a) of the Act when the Agent reported that the required CE courses had been completed to renew their life and accident & sickness ("A&S") certificates of authority for the 2019/2020 and 2020/2021 certificate terms, when in fact, they were not completed and subsequently violated s. 480(1)(b).

Facts and Evidence

This case proceeded by way of written Report to Council dated May 13, 2022 (the "Report"). The Report was forwarded to the Agent for review and to allow the Agent an opportunity to provide the Council with any further evidence or submissions by way of Addendum. The Agent submitted an email dated May 20, 2022, as a further submission.

The Agent was the holder of both Life and A&S certificates of authority. during the period of September 3, 2009 to May 9, 2022 when the Agent's certificates of authority were suspended due to the failure to produce CE records in accordance with s. 31(3) of the Regulation. In addition, the Agent had been licensed as a designated representative for Life and A&S since June 2, 2014.

As part of the AIC's annual CE audit, an "Alberta Insurance Council Continuing Education (CE) Audit" formal demand for information (the "Demand"), was sent to the agent by way of email and registered mail, dated March 29, 2022. The Demand was provided in accordance with s. 481(2) of the Act and required the Agent to produce CE certificates relating to all declared CE within the 2020/2021 certificate term. The Demand provided for a response within 30 days of receiving the Demand, that being, April 28, 2022.

On April 6, 2022, the Agent responded to the AIC indicating they would respond to the email on April 12, 2022, when the Agent returned to the office.

On April 28, 2022, the Agent provided the following response, by way of email:

Please find CE Credits attached for my Alberta license. I am an Advisor in New Brunswick, but serve a few clients who have moved to Alberta, and family members who have moved to Alberta. My license is sponsored by [C.L.] [redacted] (hereinafter the "Sponsor")
[...]

In the same email dated April 28, 2022, the Agent provided the AIC with seventeen (17) CE certificates as follows:

**097 [redacted] dated December 2, 2021
**667 [redacted] dated February 10, 2022
**887 [redacted] dated April 21, 2022
**527 [redacted] dated April 22, 2022
**284 [redacted] dated April 22, 2022
**283 [redacted] dated April 22, 2022
**286 [redacted] dated April 23, 2022
**632 [redacted] dated April 23, 2022
**287 [redacted] dated April 23, 2022
**171 [redacted] dated April 24, 2022
**625 [redacted] dated April 24, 2022
**863 [redacted] dated April 24, 2022
578** [redacted] dated April 25, 2022
**236 [redacted] dated April 25, 2022
588** [redacted] dated April 25, 2022
**237 [redacted] dated April 26, 2022
**854 [redacted] dated April 26, 2022

On April 28, 2022, the AIC sent an email to the Agent requesting the following information:

[...]

As per the original Demand and reminders, we are looking for the certificates for the courses you reported between July 2020 and June 2021. You may wish to login to your licensing portal to confirm which courses you reported.

Please note you have not satisfied the audit.

[...]

On April 29, 2022, the Agent sent the following response, by way of email:

[...]

I apologize. I misunderstood the time frame. I should have read your letter more carefully.

In the fall of 2021, I had a computer issue with malware or some kind of virus. The lap top [sic] I was using was pretty much fried. My technology people did a sweep and saved what they could, but I lost a lot of files. Then they replaced the hard drive. The reason I am telling you this is that before the fall of 2021 I was getting a lot of my CE certificates by email from different companies (I [sic] am also a Broker licensed with [I.D.C.W.I.N.] [redacted]). I spoke with [Sponsor] at the time and they suggested going forward that I do their courses on The Learning Centre/Workspace, and my CE Certificates would automatically be saved for me. So that is what I have been doing since the fall of 2021. I didn't realize that once a license had expired, that I still need the CE Certificates for that license. I thought I just needed the ones for my current license, or I would have attempted to get copies of my old CE certificates from the insurance companies at that time.

My questions are, if I can't find all of my CE Certificates from July 2020 to June 2021, or I can't get new copies [...], will I be fined, and if so, how much will the fine be? Do I need to do more courses for this year to make up for the CE Certificates that may be lost? I am working on my CE Credits now to renew my license in May.
[...]

The AIC contacted the Course Providers reported by the Agent to obtain information of CE courses reportedly completed by the Agent.

On May 2, 2022, the Assistant Registrar, Non-Credit for [Course Provider 1] [redacted] provided the AIC investigator with the following information:

[...]
I have no records for the individual named below.

Please consider contacting the individual to confirm alternate names in use while studying.
[...]

On May 3, 2022, the AIC investigator sent an email to [Course Provider 2] [redacted], requesting the following information:

[...], could you please confirm you have no record of Jane Keith (CIPR#***71 [redacted]) completing course # 44*** [redacted] on Dec 18, 2020?

As well, that the course was last done in 2018 and only offered to employees which you have no record of Jane Keith being an employee?
[...]

By way of email dated the same, the Learning Resource Consultant for [Course Provider 2] [redacted] provided the following information to the AIC:

[...]
Upon further search of our records I can confirm that we have no record of a "Jane Keith, CIPR# ***71 [redacted]" completing the course [Course Name] [redacted] course #44*** [redacted] on December 18, 2020. We only offer our accredited courses to employees of the [Company Name] [redacted]. I can also confirm that:

- My director verified with our HR department that Jane Keith is not, and has never been, an employee of [Company Name] [redacted] in any department across Insurance or Association, and
- The last date this course was offered to [Company Name] [redacted] employees was July 16, 2019.

[...]

By way of email dated May 3, 2022, the President of [Course Provider 3] [redacted] provided the following information to the AIC:

[...], our research has indicated that we do not have any record of Jane Keith completing course # 50*** [redacted] on July 18, 2019.

In fact, we do not have this individual in our financial advisor database, nor do we have any course orders or test results for her whatsoever. We have searched the years of 2017, 2018, 2019 and 2020 with no results for her.
[...]

On May 5, 2022, the Specialist, Training & Development for [Course Provider 4] [redacted] provided the following information to the AIC:

[...]

I looked through our systems and there no one [sic] by that name at all, unless she went by a different name when she was here, we cannot confirm she ever worked at [Course Provider 4] [redacted].

After research of the course number you have provided, We [sic] never had a program with this name nor one that would run for 5 years.

Course #	Course Name	Delivery Method	Life	A & S	General	Adjuster	Start	End	Location	Provider	Contact No.
40***	[Course Name] [redacted]	Multiple	.50				Sept 13, 2014	Oct 01, 2019	Various	[Course Provider] [redacted]	[Telephone Number] [redacted]

Can you provide us more information on either the complete advisor's name or course name?

Also, we normally do not offer our internal courses to anyone outside our company.

[...]

[Emphasis added in original document]

On May 5, 2022, the AIC sent an email to the Agent with the following information:

[...]

Upon further review, the courses you reported for July 2020-June 2021 renewal period was as follows:

Course #***05 [redacted] with a completion date of August 7, 2020 ([Course Provider 1] [redacted])

Course #***19 [redacted] with a completion date of October 23, 2020 ([Course Provider 1] [redacted])

Course #***79 [redacted] with a completion date of December 18, 2020 ([Course Provider 2] [redacted])

The [Course Provider 1] [redacted] confirmed they had no record of a Jane Keith completing the reported courses.

[Course Provider 2] [redacted] confirmed they only provided the course to [Company Name] [redacted] employees and last provided Course #44***in 2018. They had no record of you completing the course or ever being an employee with them.

The courses you reported for July 2019-June 2020 renewal period was as follows:

Course #50*** [redacted] with a completion date of July 18, 2018 ([Course Provider 3] [redacted])

Course #40*** [redacted] with a completion date of September 30, 2019 ([Course Provider 4] [redacted])

[Course Provider 3] [redacted] confirmed they had no record of you completing the course and had no record of you ever being registered as an advisor with them or taking any tests and they looked as far back as 2017. This course was used as carry forward to 2020-2021 renewal period as well as to meet the requirement for the 2019-2020 renewal period.

We also reached out to [Course Provider 4] [redacted] for course #40*** [redacted] reported as completed on September 30, 2019. They could not confirm you as taking this course and could not confirm this course being given on the date reported. They also confirmed they only provide courses to employees with their company.

As such, you were short credits on your license renewals as follows:

A&S License:

2019-2020 renewal period --short 2.5 credits

2020-2021 renewal period – short 15 credits

Life License:

2019-2020 renewal period -short 2.50 credits

2020-2021 renewal period – short 15 credits

As per the attached December 2021 and April 2022 CE certificates provided by you on April 28, 2022, you would still be short 1.75 credits on your A&S license and 1 credit short on your life license. Please provide additional certificates to meet the shortfall.

Should you have alternate course certificates to meet the CE requirement in the time periods indicated, please provide them ASAP.

[...]

[Emphasis added in original document]

On May 6, 2022, the Agent responded to the Compliance Department with the following, by way of email:

OK. Well this is interesting. I did do some CE Certificates with the [Course Provider 1] [redacted] (I [sic] travel to Alberta twice a year, usually for 2 weeks to a month, as my daughter lives there). I also did some courses with [redacted] at an [I.D.C.W] [redacted] seminar in Moncton, NB.

Also, I noticed a couple of times when I entered course numbers for courses I have done in New Brunswick that the number was accepted on the AIC portal, but the course name was different. I do find it difficult to find courses offered in New Brunswick which are accepted in Alberta, but now I have found a couple of CE accreditation sites that tell you in advance before you take the course what provinces the course is accredited in, so that makes it much easier to only do courses that are going to give me CE credits for Alberta.

I have entered all my courses from December 2021 on the AIC portal. It is telling me I need 32.5 courses for my Life license and 32.5 courses for my A & S license. The portal is telling me I need 16 more courses for my life license and 16.75 for my A & S license. I will get those before I need to renew my license at the end of June 2022. I have the CE certificates for all of the courses that I have entered on the AIC portal from December 2021 to now. I will check to see what CE certificates I have sent you and which ones are missing.

[...]

By way of email dated the same, the AIC responded to the Agent with the following:

[...]

As of yet, you have not met the CE requirements for the 2019/2020 and 2020/2021 renewals. As noted in my email of May 5, 2022, if you have additional certificates for the periods indicated, please provide them. As per the original Demand, you have not satisfied the audit within the 30 day deadline.

If you are having difficulty obtaining certificates, you can contact the course providers to assist you with this.

[...]

On May 20, 2022, the Agent sent the AIC investigator the following explanation:

[...] I will be submitting a written submission, as it came as a surprise to me that some of my CE credits were not eligible for Alberta. Some courses I have completed, I came to find out later were not eligible in Alberta. Since New Brunswick does not require CE Courses to renew a New Brunswick license, I never thought to check if the courses were approved for Alberta before I completed them. This was not a dishonest act on my part and I am committed to fixing it as soon as possible. I do not have an issue paying the fine(s) as it was my error, so my responsibility. I am presently working on my CE credits for the renewal of my Alberta license as of June 30, 2022. I am an honest advisor and I do good work for my clients. The only reason I applied for an Alberta license is because I have had friends and family members move to Alberta for work, and they did not want to find a new advisor. I always put my clients first.

[...]

Discussion

Section 509(1)(a) of the Act provides that “[n]o insurer, insurance agent or adjuster may make a false or misleading statement, representation or advertisement.” Offences such as those considered under s. 509(1)(a) of the Act are strict liability offences. As such, the AIC only has the onus to prove that the Agent’s statement that the required CE certificates had been completed was false. Once this occurs, the onus then shifts to the Agent to establish a defence of due diligence. To establish this, the Agent must prove that all reasonable measures were taken to avoid making the false statement.

The Council considered all the evidence before it, in particular the Agent’s explanation that “*a computer issue*”, caused the Agent to lose files, and that the Agent found it difficult to find courses in New Brunswick that would be accepted in Alberta. However, with insurance agents working for clients and completing their applications, it is the responsibility of the insurance agent to ensure a high level of due diligence and accuracy when completing their own applications. Further, it is the responsibility of the agent to ensure that they have completed the CE hours every certificate term, as required by the Regulation, prior to the renewal of their certificates of authority. Therefore, the Council finds that the Agent made a false or misleading statement as contemplated by s. 509(1)(a) of the Act and therefore has breached s. 480(1)(b) of the Act.

As to the appropriate sanction for this conduct, the Council has the discretion to levy a civil penalty in the amount of \$1,000.00 per demonstrated offence pursuant to s. 480(1)(b) and 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, AR 125/2001. The Council considered that the Agent not only falsely declared CE credits, but falsely made these statements for two certificate terms. Based on these factors and the evidence before the Council, the Council orders that a civil penalty, in the amount of \$750.00 per certificate term, resulting in two (2) offences, equaling a total civil penalty of one thousand five hundred dollars (\$1,500.00), be levied against the Agent.

The civil penalty of \$1,500.00 must be paid within thirty (30) days of the mailing of this Decision. In the event that the civil penalty is not paid within thirty (30) days, interest will begin to accrue at the prescribed rate. Pursuant to s. 482 of the Act (excerpt enclosed), the 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.

Date: July 20, 2022

[Original Signed By]
Michael Bibby, 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.

Contact Information and Useful Links for Appeal:

Email: tbf.insurance@gov.ab.ca

Phone: 780-643-2237

Fax: 780-420-0752

Toll-free in Alberta: Dial 310-0000, then the number

Mailing Address: 402 Terrace Building, 9515 – 107 Street Edmonton, AB T5K 2C3

Link: [Bulletins, notices, enforcement activities | Alberta.ca](#) – *Interpretation Bulletin 02-2021 – Submitting Notices of Appeal of Insurance Council Decisions*