

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 ClaimsPro LP/BBCG Claim Services
(the "Firm")

As represented by
Designated Representative, Kevin Hengstler
(the "DR")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the AIC undertook a review of Kelly Poole's (the "Adjuster") licensing records, during which review information came to light that, indicated that the Adjuster had been acting as an insurance adjuster while unlicensed;

AND WHEREAS the review established that the Adjuster had handled insurance claims during the period from November 20, 2014 to and including June 11, 2015, without a valid and subsisting Certificate of Authority and was compensated for acting as an insurance adjuster by the Firm;

AND WHEREAS the Firm 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 DR and the Investigator agree as follows:

- 1.0 For the purposes of this Agreed Statement of Facts and Joint Submission, the Firm through its DR makes the following admissions and submissions:
 - 1.1.1 The Firm is the holder of a Certificate of Authority (8-3217068) to transact business as an Insurance adjusting firm and was so licensed since February 17, 2006;
 - 1.1.2 Kevin Hengstler is named as the Designated Representative on the insurance adjusting firm Certificate of Authority held by the Firm;
 - 1.1.3 In response to a request for information from the AIC, the Adjuster sent a letter to the AIC on June 12, 2015 in which she disclosed that between November 20, 2014 to and including June 11, 2015, she handled 176 claims files, for which she received a salary from the Firm in the amount of \$45,900.00 per year and thus was compensated for the handling of those claims files;

- 1.1.4 In response to a letter from the AIC dated February 10, 2016, the DR sent an email dated March 3, 2016 to the AIC, which confirmed that the Adjuster handled insurance claims and received compensation income in the amount of \$24,000.00 for the period of time the adjuster was unlicensed;
 - 1.1.5 The investigator notes that the Firm had three prior similar complaint files for compensating unlicensed adjusters, two of which resulted in a sanction levied against the Firm. In 2010, the Firm was fined \$750.00 in two files and in 2012, the Firm received an administrative caution.
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Firm contravened section 460(3) of the Act, and consequently violated section 480 (1) (b) of the Act for compensating an Adjuster during a period of time she was unlicensed.
- 3.0 The Firm and the Investigator jointly recommend to the Insurance Adjusters' 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 Firm by approving a decision in the form annexed hereto as Schedule 1, which provides for a civil penalty in the amount of \$1000.00 in accordance with the penalties prescribed in section 13(1) (b) of the Certificate Expiry, Penalties and Fees Regulation, AR 125/2001.
- 4.0 The Firm recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The Firm 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 Firm is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Firm waives its right to appeal this decision as set out in section 482 of the Act.
- 7.0 The Firm 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 Firm 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 Firm recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Firm in this matter only, as the matter is described above.

Dated at the City of Edmonton, in the Province of Alberta this 21st day of April, 2016.

ALBERTA INSURANCE COUNCIL

PER:

Original Signed By
Trisha Lunt, Investigator

Dated at the City of Calgary, in the Province of Alberta, this 3rd day of May, 2016.

Original Signed By
Kevin Hengstler, Designated Representative

In the presence of:

Original Signed
Signature of Witness

Name of Witness (please print)

SCHEDULE 1

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 ClaimsPro LP/BBCG Claim Services
(the "Firm")

As represented by
Designated Representative, Kevin Hengstler
(the "DR")

DECISION OF
The Insurance Adjusters' 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 compensation of an unlicensed adjuster by the adjusting firm, from November 20, 2014 to and including June 11, 2015;

AND WHEREAS as a result of information received, the Investigator and the DR 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 DR has agreed that the Firm will pay a civil penalty in the amount of ONE THOUSAND DOLLARS (\$1000.00) in relation to the Firm compensating an insurance adjuster during the period of time she 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 Firm pay a fine of ONE THOUSAND DOLLARS (\$1000.00) 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 Insurance Adjusters' Council. The motion was duly recorded in the minutes of that meeting.

Date: September 8, 2016

Original Signed By
Ron Pearson, Member
Insurance Adjusters' Council