

ALBERTA INSURANCE COUNCIL

**In the Matter of the *Insurance Act*, R.S.A. 2000, Chapter I-3
(the “Act”)**

AND

**IN THE MATTER OF ANNETTE E. SMITH
(the “Agent”)**

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the “AIC”) were advised by Equitable Life of Canada (“the Insurer”) that the Agent had signed the client’s signature;

AND WHEREAS the Agent has been employed as a life insurance agent with World Financial Group Insurance Agency of Canada Inc. (“the Agency”) since January 23, 2007;

AND WHEREAS the review established that the Agent had signed her client’s signature on an illustration of a policy;

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 holder of valid Certificates of Authority for the sale of life and accident and sickness insurance (M-120692 & Q-120692) and has been so licensed since January 23, 2007;
 - 1.1.2 In or around February 2015, the Agent had a few meetings with Conrad Barylski (“the Client”) who decided that he wanted to proceed with a Universal Life Policy. The Client signed the policy documents and had to leave town on work;
 - 1.1.3 There was a rating change to the Client’s policy and as a result the Client had to sign a new illustration. The Agent advised the investigator that she tried contacting the Client but was unsuccessful in obtaining his written consent even though the Client provided his verbal acceptance to the Agent, so the Agent signed the Client’s signature on the new illustration with the increased rating based on the Client’s instructions;

- 1.1.4 The Client subsequently confirmed that he had asked the Agent to sign the illustration since he was out of town without access to a fax machine and did not know when he would return. The Client had also advised the Agent that he did not have an email address;
 - 1.1.5 The Client on returning home signed the said illustration that the Agent had signed. The policy has been accepted by the Insurer;
 - 1.1.6 The Client provided a signed letter to the Insurer that stated “This letter is to clarify that I Conrad Barylski was aware and in agreement to Annette Smith signing the illustration on my behalf. I signed all paper. The application the first illustration the drug questionnaires’ the 251 form and policy receipt. All forms were signed by myself but the rated illustration...”
 - 1.1.7 The investigator tried calling the Client several times and left messages on his voice mail to call him back to confirm the information provided but did not hear back from the Client.
 - 1.1.8 The Agent was provided a reprimand letter from the Agency for her behaviour. The Agent has apologized and said “I was never told that signing an illustration was a fraud matter...if I knew it was this serious I would have never done it”;
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened Section 509 (1) (a) of the Act, and is consequently guilty of making a misleading statement or representation.
 - 3.0 The Agent and the investigator jointly recommend to the Life Insurance Council (the “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 signing a decision in the form attached hereto as Schedule 1, which provides for a total fine of \$300.00 pursuant to Section 480(1)(b) of the Act in accordance with the penalties prescribed in Section 13(1)(b) of the Certificate Expiry, Penalties and Fees Regulation, 125/2001.
 - 4.0 The Agent recognizes that the acceptance of the decision set out in Schedule 1 hereto by the Council 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 specified fine 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 her right to appeal this decision pursuant to Section 482 of the Act.
- 7.0 The Agent waives any existing right she 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 Calgary, in the Province of Alberta, this 22nd day of September, 2015.

ALBERTA INSURANCE COUNCIL
PER:

Original Signed By
Roy Dias, Investigator

Dated at Calgary, in the Province of Alberta, this 27th day of September, 2015.

Original Signed By

ANNETTE E. SMITH, Agent

In the presence of:

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 ANNETTE E. SMITH
(the "Agent")**

**DECISION of the
THE LIFE 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 signing of a client's signature by Life Insurance agent, namely Annette E. Smith;

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 that she will pay a penalty in the amount of THREE HUNDRED DOLLARS (\$300.00) 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 fine of THREE HUNDRED DOLLARS (\$300.00) 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 on October 14, 2015. The motion was duly recorded in the minutes of that meeting.

Original Signed By

Kenneth Doll

Chairman, Life Insurance Council