

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 J. Ross Allan Financial Services Ltd
(the "Agency")

As represented by
Designated Representative
James Allan
(the "DR")

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the "AIC") undertook a review of the Agency's records, during which review information indicated that the Agency had operated without a valid and subsisting Certificate of Authority and acted as a Life and Accident and Sickness ("A&S") insurance agent from February 23, 2017 to May 3, 2018 ("unlicensed period").

AND WHEREAS the review established that the Agency issued 4 insurance policies and was compensated for those policies during the unlicensed period;

AND WHEREAS the Agency 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 Agency through its DR makes the following admissions and submissions:
 - 1.1.1 The Agency is the holder of a full life agent's certificate of authority (5-6366796) and an A&S agent's certificate of authority (6-6366796) to transact business as an insurance agent and has been licensed since at least November 5, 2015;
 - 1.1.2 In response to an email from the AIC dated May 23, 2018, the DR sent an email dated June 5, 2018, confirming that the Agency had been compensated for acting as an insurance agent during the unlicensed period;
 - 1.1.3 The DR advised that the Agency was not notified that their certificates of authority were suspended by their sponsor. The Agency's licenses were suspended as the insurance company terminated their sponsorship on the advice of the managing general agent ("MGA"). The Agency resigned from representing the MGA and as a result the MGA

and the Agency's contracts were terminated. The MGA notified the Agency's carriers of the termination, one of which carriers was the Agency's sponsoring company;

1.1.4 The DR confirmed that the Agency sold 4 policies during the unlicensed period and received \$443,619.19 in commission. The two companies that underwrote those policies confirmed that the number of policies sold and amount of commission the Agency disclosed to the AIC were correct;

1.1.5 This is the first occurrence of unlicensed activity for this Agency; and

1.1.6 The DR is aware that any similar future occurrences may result in a potential fine as high as \$1,000.00 per policy sold when unlicensed. The DR stated that he took these matters seriously and advised that the new MGA has a compliance person to manage the licensing process.

- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agency contravened section 452 (1) of the Act, and consequently violated section 480 (1) (b) of the Act for acting as an insurance agent when unlicensed.
- 3.0 The DR and the investigator jointly recommend to the The Life 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 Agency 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 DR recognizes that the acceptance of the decision set out in Schedule 1 shall be at the unfettered discretion of the Council.
- 5.0 The DR 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 DR is also aware of and acknowledges that by entering into this Agreed Statement of Facts and Joint Submission, the Agency waives its right to appeal this decision as set out in section 482 of the Act.
- 7.0 The DR 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 DR 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 DR recognizes that this Agreed Statement of Facts and Joint Submission resolves all issues involving the Agency in this matter only, as the matter is described above.
- 10.0 This Agreement can be executed in several counterparts, each of which will be treated in the same way as an original, and all of the counterparts will together make a single agreement. This Agreement can be executed and exchanged by facsimile or other electronic means and in such a way is binding as if original signatures were used.

Dated at the City of Calgary, in the Province of Alberta this 1 day of March 2019.

ALBERTA INSURANCE COUNCIL

PER:

[Original signed by]

Crystal Ellis, Investigator

Dated at the City of Vancouver, in the Province of British Columbia this 11th day of March, 2019.

[Original signed by]

James Allan, Designated Representative

In the presence of:

[Original signed by]

Signature of Witness

[K.E.]

Name of Witness (please print)

SCHEDULE 1

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DECISION OF
The Life 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 Agency acting as an insurance agent while unlicensed;

AND WHEREAS as a result of information received, the investigator and the DR of the Agency 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 Agency will pay a civil penalty in the amount of ONE THOUSAND (\$1000.00) 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 Agency pay a fine of ONE THOUSAND (\$1000.00), 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 The Life Insurance Council. The motion was duly recorded in the minutes of that meeting.

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Date: May 1, 2019

[Original signed by]
Michael Bibby - Chair Life Insurance Council