

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 Alexander Donaldson  
(the "Agent")

DECISION  
OF  
The General Insurance Council  
(the "Council")

This case involved an alleged violation of s. 452(2) of the Act. Specifically, that the Agent acted as an insurance agent during a period of time in which he did not hold a valid and subsisting certificate of authority to do so and that the Agent subsequently violated s. 480(1)(b) of the Act.

**Facts and Evidence**

This matter proceeded by way of a written Report to Council dated September 30, 2021 (the "Report"). The Report was forwarded to the Agent for review, and to allow the Agent to provide the Council with any further evidence or submissions by way of Addendum. The Agent did not respond to the Report sent to him on October 1, 2021.

The Agent was the holder of a General – Level 1 certificate of authority from February 25, 2019, to June 30, 2020, when his certificate of authority expired. The unlicensed period was from July 1, 2020, to May 14, 2021, when the Agent was terminated from [AIA] [redacted] (hereinafter the "Former Agency"). The Agent is not currently licensed.

The AIC investigation commenced in response to a termination for cause letter sent to the AIC by way of email on May 28, 2021, from the Former Agency. The covering email received with the termination letter stated the following:

[...] Please see attached termination notice for Alex Donaldson. Through an administrative review of the Former Agency's 2021-2022 license renewals, it was noticed Mr. Donaldson was not on the renewal list. Upon further investigation it was determined the Former Agency remitted payment for Mr. Donaldson's license in May 2020 but he failed to complete the individual application process. Once realized, Mr. Donaldson was directed to immediately cease all customer transactions while a review of his license and an audit of his work was completed. Following this conversation, Mr. Donaldson activated a new insurance policy with a customer while unlicensed.

As Mr. Donaldson has conducted himself in a manner not appropriate under the Insurance Act, and shown a disregard to the direction provided to him by his leadership team, the Former Agency has released his position with cause. [...]

On June 2, 2021, the AIC investigator sent a letter to the Agent by way of email. The letter requested the following information from the Agent:

[...] AIC has been notified that you were terminated with the Former Agency after an internal administrative review identified that you may have sold an insurance policy while not holding a valid and subsisting Certificate of Authority. The Former Agency alleges that they advised you to cease all customer transactions, however; it appears you may have sold a policy(s) during the period you were unlicensed from May 2020 to May 2021. As such, I am writing to request that you provide us with the following details:

- 1) An explanation as to the reason(s) why you continued to sell insurance policies during the period in which you were unlicensed;
- 2) A comprehensive list of all insurance policies that you sold during the unlicensed period, specifying the name of the insurance company which underwrote each policy, the date on which the policies were sold, and the policy numbers;
- 3) Details with respect to the type and amount of compensation which you received in relation to such sales (including both salary and commission); and
- 4) Confirmation as to whom you are paid by for all insurance sales. [...]

On July 16, 2021, the Agent responded to the AIC investigator by providing the following information:

[...] Thank you for reaching out to me and I will attempt to answer your questions to the best of my ability.

To address your first area of concern, I was not aware of the unlicensed activity from May 2020 to May 2021 until May 2021. It appears there may have been an issue in renewing my license but I am not entirely sure at this time. I had an excess of CE credited hours, the Former Agency advised the license was paid and I was lead [sic] to believe in May 2020 that my license had been renewed. I was under the impression that the review conducted by the Former Agency was looking into why my license was not renewed May 2020. This does not seem to be the case.

To address your second area of concern, I currently do not have access to the necessary tools to provide a comprehensive list of insurance policies I sold between May 2020 – May 2021. As I am no longer an Former Agency employee, I do not have access to the policies, databases or tools required to complete this request.

[...]

By way of email dated, July 21, 2021, the AIC investigator requested the following information from the Former Agency:

[...] Please provide the following, referencing our file number in your response:

- The number of customers who purchased policies from Alex Donaldson and were therefore affected by the unlicensed activity, along with policy numbers; and
- The date the unlicensed activity was discovered; and
- Copies of any correspondence/documentation in which Alex Donaldson was directed to cease customer transactions after the unlicensed activity was discovered. [...]

On July 23, 2021, the Former Agency provided a document entitled “Summary of Events” (the “Summary”). This Summary provided the following:

April 28, 2021	Discovery of unlicensed activity	<p>While reviewing our 2021-2022 renewal invoice, it was noticed by our Executive Assistant that Alex Donaldson was not on the list of all Former Agency employees.</p> <p>She immediately notified the D/R and followed up directly with Alex confirming we cannot find him in the renewal list, nor on the AIC lookup requesting he locate a copy and send to her. She then notified Alex’s supervisor, [A.L.] [redacted]. Alex was unable to produce proof of his license.</p>
April 28	Email to Alex from Supervisor, [A.L.] [redacted]  5:54pm	<p>***URGENT*** Stop all client interactions – 2020-2021 Insurance license issue</p> <p>“Until further notice please cease all interactions with clients and do not complete any work that requires an insurance license.”</p>
April 29	Phone call to Alex from [A.L.] [redacted]	Followed up on April 28 <sup>th</sup> email to ensure Alex understood that he must cease all client interactions. Assigned him administrative duties of issuing simple renewals that do not need client contact or deep underwriting. Expectation was to issue a large number of renewals since this is all he could work on.
April 30	Emails from [A.L.] [redacted] to Alex	Reiterated to Alex he is unlicensed. He is expected to be completing more work than he is producing since he is unable to complete the advisor function of his position.
May 3		
May 7	Notes	[A.L.] [redacted] checked team shared email inbox to see what work is coming up for the team. He noticed an email response addressed to Alex responding to a quote that was sent on May 6 <sup>th</sup> . This is a breach of his authority as he is not licensed and is aware that he cannot interact with clients.
May 7	Phone call to Alex, from Supervisor, [A.L.] [redacted]  10:30am	<p>Phone call to discuss what led to Alex sending a quote out while unlicensed.</p> <p>He saw an email come in regarding this file and instinctively thought he should send it out as he had been working on it. He had a “Complete lapse in his brain” and sent quote to client.</p> <p>[A.L.] [redacted] explained that he has a responsibility not to act as advisor while unlicensed, so this is a significant breach of authority. Regardless of license status, the instructions he was given when we discovered he was unlicensed was to cease all client interactions until further notice. He acknowledged this and said that it was a lapse; he thanked [A.L.] [redacted] for bringing it to his attention. [A.L.] [redacted] advised that this is serious and is not a lapse that can happen again.</p>
May 7	Recap of telephone conversation with Alex	<p>Alex confirmed:</p> <ul style="list-style-type: none"> <li>- He is aware he is unlicensed</li> </ul>

		<ul style="list-style-type: none"> <li>- He acknowledges and understands he received communication and instruction to cease all client interactions</li> <li>- Confirmed he has had no other client interactions since April 28, 2021.</li> </ul>
May 7	Phone call to Alex, from Supervisor, [A.L.] [redacted]  2:00pm	Informed Alex of the business' decision to suspend him. There were no questions raised and Alex had little to no reaction to being informed he was now suspended. [A.L.] [redacted] provided his work email for him to submit any questions he has about the process and confirmed his personal contact info for us to contact him once the investigation is complete.
May 14		Alex was released from his advisor position within the Former Agency.

The Former Agency's documentation provided on July 23, 2021, also included a summary of policies bound by the Agent during the unlicensed activity period. During the period of July 1, 2020, to April 28, 2021, the Agent bound fifteen (15) policies. The investigation completed by the Former Agency found that there were no issues with the policies bound by the Agent during the unlicensed period.

On July 28, 2021, the AIC investigator requested the Agent provide additional information in response to the documentation received from the Former Agency. The Agent did not respond.

On August 11, 2021, the AIC investigator sent a formal Demand for Information ("Demand") to the Agent, pursuant to s. 481 of the Act. The Demand requested the following information from the Agent:

[...] I recently contacted you by email, requesting certain information required as a part of a Compliance Investigation. As per the request sent to you on July 28, 2021, you were asked to provide the following information:

1. According to the information gathered so far, it appears that on April 28, 2021 you were directed by your then employer to cease all client transactions. Please confirm whether this date is correct.
2. During my investigation it has come to light that you sent a quote to a client on May 6, 2021. Please explain why you continued to engage in client transactions after your employer had directed you not to.
3. Any other information or documentation which you feel may assist in understanding the material facts.

**This letter is a formal demand.** [...]

The Agent did not respond to the Demand by the deadline provided of August 30, 2021. To date the AIC has not received a response to the Demand.

The Council reviewed all information submitted by the Former Agency, the Agent and the AIC investigator.

**Discussion**

Offences such as those considered under s. 452(2) of the Act are strict liability offences. As such, the AIC has the onus to prove that the Agent acted in the capacity of an insurance agent, as defined in the Act, during a period in which he did not hold a valid and subsisting certificate of authority to do so. Once this occurs, the responsibility then shifts to the Agent to demonstrate that due diligence was exercised to avoid acting as an insurance agent when he did not hold a valid and subsisting certificate of authority to do so.

The evidence in the Report established that the Agent's certificate of authority automatically expired on June 30, 2020, as the Agent did not renew the certificate of authority during the AIC certificate renewal period. The Agent stated that he assumed the certificate of authority had been renewed when the Former Agency advised the license was paid. It is clear that the Agent's certificate of authority was not renewed prior to the automatic expiration on June 30, 2020. It is equally clear that the Agent continued to act in the capacity of an insurance agent while unlicensed.

The Agent did not provide evidence that he exercised due diligence to ensure that he did not act in the capacity of an insurance agent while not holding a valid certificate of authority. The Agent simply assumed that his license was renewed when the Former Agency advised that the renewal fee had been paid. Additionally, when the Former Agency became aware of the Agent's lack of valid certificate of authority, the Former Agency informed the Agent of his unlicensed status and instructed the Agent to immediately cease all client transactions. It is clear from the evidence that the Agent failed to follow those directions and continued to act in the capacity of an insurance agent after being informed he did not hold a valid certificate of authority to act as an insurance agent. The Agent sold fifteen (15) policies between July 8, 2020, and April 13, 2021. The Council finds the Agent guilty of violating s. 452(2) of the Act, and subsequently violated s. 480(1)(b) of the Act as alleged.

It is the responsibility of an agent to ensure that a valid certificate of authority exists prior to conducting insurance business.

Pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001, the Council has the discretion to levy a civil penalty in the amount of \$1,000.00 per demonstrated offence against an agent. In light of all the circumstances, the Council is of the view that a significant civil penalty is warranted in this matter. As such, the Council orders a civil penalty, in the amount of \$300.00, per policy sold during the unlicensed period, resulting in fifteen (15) offences, equaling a total civil penalty of four thousand five hundred dollars (\$4,500.00), be levied against the Agent.

The civil penalty of \$4,500.00 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 General Insurance Council. The motion was duly recorded in the minutes of that meeting.

Dated: December 6, 2021

[Original Signed By]  
Janice Sabourin, Chair  
General 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](mailto: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*