

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 Daljinder Kang
(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 the life and accident & sickness ("A&S") certificates of authority for the 2020/2021 certificate term (July 1, 2020 to June 30, 2021) 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 December 15, 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 is the holder of both life and A&S insurance agent certificates of authority. The Agent has held these certificates since July 23, 2018.

As part of the AIC's annual CE audit, an "Alberta Insurance Council Continuing Education (CE) Audit" request was sent to the Agent by way of email correspondence dated October 4, 2021 (the "Demand"). The formal Demand was provided in accordance with s. 481(2) of the Act and required the Agent to produce CE certificates regarding all declared CE within the 2020/2021 certificate term. The Demand provided for a response within 30 days of receiving the Demand, being November 4, 2021.

On October 19, 2021, the Agent sent an email to the AIC Compliance Department that included twelve (12) CE certificates from [Course Provider] [redacted].

By way of email dated the same, the AIC Compliance Department sent the Agent the following by way of email:

[...]

We will require the following certificates:

48*** [redacted] – May 25, 2021

5***8 [redacted] – May 25, 2021

5***9 [redacted] – May 25, 2021

52*** [redacted] – May 25, 2021

51*** [redacted] – April 27, 2021

51*** [redacted] – April 25, 2021

47*** [redacted] – Oct 20, 2020

5***9 [redacted] -May 18, 2020 (prior year carry forward)

50**0 [redacted] – May 18, 2020 (prior year carry forward)

48*** [redacted] – May 18, 2020 (prior year carry forward)

As well the following certificates #56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1 [redacted] were reported completed on May 25, 2021. But the certificates provided show completion on May 24, 2021. Please advise.

[...]

On October 20, 2021, the Agent provided CE certificates previously submitted on October 19, 2021. The Agent submitted eight (8) additional CE certificates requested by the AIC in the email dated October 19, 2021. The Agent provided the following explanation with respect to an incorrect date on CE certificates:

[...]

As well the following certificates 56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1 [redacted] were reported completed on May 25, 2021. But the certificates provided show completion --- for this, I am guessing maybe I completed more exams on May 25 2021, so that's why I reported the completion date May 25 2021 instead of May 24 2021.

Sorry for the inconveniences.

[...]

On October 22, 2021, the AIC Compliance Department clarified, by way of email that the following CE certificates were still required:

[...]

We still require the following (please send one pdf of the below courses listed only):

48*** [redacted] – May 25, 2021

5***8 [redacted] – May 25, 2021

5***9 [redacted] – May 25, 2021

52*** [redacted] – May 25, 2021

51*** [redacted] – April 27, 2021

51*** [redacted] – April 25, 2021

47*** [redacted] – Oct 20, 2020

As well for the following certificates #56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1 [redacted], if the certificate date is accurate, please create a new entry with the correct course information and advise which ones need to be removed for inaccurate course information.

[...]

On October 24, 2021, the Agent provided eleven (11) previously submitted CE certificates along with the following information:

[...]

and i [sic] am going to do the new entry of #56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1. [redacted]
[...]

On October 25, 2021, the AIC Compliance Department responded to the Agent with the following:

[...]

The certificates do not match what you have provided in terms of completion date.

You declared course #47*** [redacted] – Oct 20, 2020 and May 18, 2020. You have not provided the certificate dated Oct 20, 2020. The May certificates are dated for May 2020, which we have accounted for. But no certificates have been produced for the May 2021. We specifically need the certificates for what you have reported:

48* [redacted] – May 25, 2021**

5*8 [redacted] – May 25, 2021**

5*9 [redacted] – May 25, 2021**

52* [redacted] – May 25, 2021**

51* [redacted] – April 27, 2021**

51* [redacted] – April 25, 2021**

47* [redacted] – Oct 20, 2020**

As well for the following certificates #56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1 [redacted], we are still waiting for you to enter them with the correct course completion date of May 24, 2021.

[...]

[Emphasis added in original document]

On October 26, 2021, the Agent responded to the AIC Compliance Department, providing the following information:

[...]

I think the below mentioned no. are the extra credit carried forward from last year 2020, because due to the COVID 19, I think requirement of the CE credit was reduced as well. I have only this, please guide me what I should do, how to correct these. I always completed my required training courses for the CE education. Should I do [sic] again ?

[...]

As well the following certificates #56*** [redacted], 5***2 [redacted], 55*** [redacted], 5***8 [redacted], 5***1 [redacted] were reported completed on May 25, 2021. But the certificates provided show completion on May 24, 2021.-----all of these are corrected and reported again.

On October 27, 2021, the AIC Compliance Department provided the following information to the Agent:

[...]

You mentioned that you do not have the following CE course certificates:

48* [redacted] – May 25, 2021**

5*8 [redacted] – May 25, 2021**

5*9 [redacted] – May 25, 2021**

52* [redacted] – May 25, 2021**

51* [redacted] – April 27, 2021**

51* [redacted] – April 25, 2021**

47* [redacted] – Oct 20, 2020**

Without these courses, you are short 1.75 credits for your life license and 5 credits short for your A&S license.

As well, you have course #5***2 [redacted] reported as completed on May 28, 2021 and May 25, 2021. You only provided one certificate for this course dated May 24, 2021. Without a second of this course, you are short an additional 1 A&S credit.

If you have additional continuing education certificates to meet the CE requirement, please provide them asap.

As such, please note you have not satisfied the audit. The deadline is end of day, November 4, 2021.

[...]

[Emphasis added in original document]

On October 28, 2021, the Agent sent seven (7) additional CE certificates and stated the following:

[...]

I completed 2 LIFE AND 6 FOR A &S, I reported as well, please review and let me know if there is any thing pending.

On November 1, 2021, the Agent sent another email to the AIC Compliance Department asking to “*please check all the courses which I completed and reported on 28/10/2021*”. On November 5, 2021, the Agent sent another email to the AIC Compliance Department requesting an update.

On November 8, 2021, the AIC Compliance Department sent an email to [Course Provider] [redacted], requesting confirmation of the following:

Could you please confirm if Daljinder Kang (CIPR#114***), completed the following courses on the dates indicated?

48*** [redacted] – May 25, 2021

5***8 [redacted] – May 25, 2021

5***9 [redacted] – May 25, 2021

52*** [redacted] – May 25, 2021

51*** [redacted] – April 27, 2021

51*** [redacted] – April 25, 2021

47*** [redacted] – Oct 20, 2020

[...]

On November 10, 2021, [Course Provider] [redacted] confirmed the following:

[...]

Based on the records in Daljinder’s profile, I see all the completions listed below but the dates are different from the ones indicated:

48*** [redacted] – May 25, 2021 - Open the door to Disability Insurance - **Completed on 5/18/2020**

5***8 [redacted] – May 25, 2021 - Disability Income Protection Case Study Workshop - **Completed on 5/18/2020**

5***9 [redacted] – May 25, 2021 - Business value protection & financial underwriting - **Completed on 5/18/2020**

52*** [redacted] – May 25, 2021 - Back to Basics: Navigating Quoting Software & Illustrations 101 – **Completed 5/18/2020**

51*** [redacted] – April 27, 2021 - Diabetes - What's the decision? **Completed on 5/18/2020**

51*** [redacted] – April 25, 2021 - Diabetes - What's the decision? - duplicate to the above, **Completed on 5/18/2020**

47*** [redacted] – Oct 20, 2020 - Disability Insurance: Top Up, Offset or Both – **Completed 5/18/2020**

Please note also that he does have completions on the following dates that you’ve listed that are different then [sic] the titles you’ve provided:

48*** [redacted] – May 25, 2021

5***8 [redacted] – May 25, 2021

5***9 [redacted] – May 25, 2021

52*** [redacted] – May 25, 2021

[...]
[Emphasis added in original document]

On January 6, 2022, the Agent provided copies of emails sent to the AIC Compliance Department on November 1 and November 5, 2021 requesting the AIC Compliance Department to check all the courses the Agent had submitted.

On January 7, 2022, the AIC Compliance Department sent an email to the Agent, providing a reminder that the Agent may provide a response to the Report.

On January 9, 2022, the Agent sent the AIC investigator the following explanation, which stated:

[...]
I want to explain my situation along with the Attached Signed letter of AIC regarding the case no. 71071, I am just re calling [sic] my memory, may be I am wrong, Due [sic] to the Covid 19 Situation there is 5 CE credit rebate given by AIC in 2019-2020, I did the more [sic] than required and after that in 2020-2021 I have some of those carry forward on the AIC portal and I did the left one's [sic] and reported on the AIC portal, and after couple of days those are verified by the AIC portal and gave the green signal to renew the both licenses [sic], so I paid out my [sic] both licenses fees and submitted the renewal of my licenses.

I never got any system prompt regarding that [sic] I was short of that much CE certificates [sic], and AIC portal never gave the pop up regarding that [sic] you have these exams reported twice, so on the basis of system response I assumed that I am good for the renewal, that was not my personal intention to do the short reporting of CE certificates.

I apologize whatever happens on the basis of system response, and I am making sure in future I am taking extra due diligence, now I am clear and I learnt the bitter lesson that we didn't [sic] rely only on technology.

Please give me this one and last chance for this mistake, I am assuring you that this will never happen in future.
[...]

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 that once the Agent realized the mistake, the Agent enrolled in courses to complete the CE certificate required. 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. 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 sought to rectify their error and that they stated to have a commitment to ensure “*extra due diligence*” in the future. Based on these factors and the evidence before the Council, the Council orders that a civil penalty, in the amount of \$750.00 per misleading statement, 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: March 16, 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*