

ALBERTA INSURANCE COUNCIL

IN THE MATTER OF THE *INSURANCE ACT*, R.S.A. 2000, CHAPTER I-3
(the “*Act*”)

AND
IN THE MATTER OF FRED BALES
(the “*Agent*”)

AGREED STATEMENT OF FACTS AND JOINT SUBMISSION

WHEREAS the Alberta Insurance Council (the “AIC”) undertook a review of the Agent’s Renewal Applications for Certificates of Authority for the periods 2010/2011 and 2012/2013, during which review information came to light that the Agent failed to provide information required by the Minister on his Applications for Certificate of Authority;

AND WHEREAS the review established that the Agent was convicted on August 16, 2010 for driving under the influence, and on January 13, 2012 for driving while disqualified, both of which he did not disclose on his 2010/2011 and 2012/2013 renewal applications;

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 a valid and subsisting Certificate of Authority (#I-45010) to transact business as a General Insurance agent pursuant to s.452(2) of the *Act* and has been so licensed since at least January 1, 1989;
- 1.1.2 On October 29, 2010, and on November 1, 2011, the Agent completed his General agent’s renewal applications online which contained the following question: “Since the date of the last application in Alberta for a Certificate of Authority or Renewal thereof have you: ... 3) Been convicted of an offence under the Insurance Act or any other enactment?” In response to that question, the Agent marked “No” on both renewal application forms;
- 1.1.3 On March 20, 2012, The Agent’s former Designated Representative sent an email to the AIC which contained a copy of the Agent’s drivers abstract outlining these convictions;

- 1.1.4 In response to a request for an explanation from the AIC, the AIC received an email from the Agent on April 27, 2012, that stated “As for noting these convictions on my Insurance License Applications with the AIC, I really did not believe I needed to or had to...the application states; ‘Been convicted of an offence under the Insurance Act or any other enactment.’ To me this question is open to interpretation; more notably, is it referring to any other part of the Insurance Act? In no way was I trying to hide these convictions from the AIC...” The AIC had received a copy of the Agent’s drivers abstract from his previous employer which outlined these convictions;
- 2.0 As a result of the facts set out in this Agreed Statement of Facts and Joint Submission, the Agent contravened s.467(1)(c) of the *Act*, and consequently violated s.480(1)(b) of the *Act*.
- 3.0 The Agent and the investigator jointly recommend to the General 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 fine of \$600.00 pursuant to s.480(1)(b) of the *Act* in accordance with the penalties prescribed in s.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 s.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 his right to appeal this decision pursuant to s.482 of the *Act*.
- 7.0 The Agent waives any existing right he 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 3 day of June 2013.

ALBERTA INSURANCE COUNCIL
PER:

Original signed by
Carrie Graham, Investigator

Dated at Edmonton, in the Province of Alberta, this 28 day of May 2013.

Fred Bales, the Agent

In the presence of:

Name of Witness (please print)

Original signed by
Signature of Witness

SCHEDULE 1

ALBERTA INSURANCE COUNCIL

IN THE MATTER OF THE *INSURANCE ACT*, R.S.A. 2000, CHAPTER I-3
(the “Act”)

AND

IN THE MATTER OF FRED BALES
(the “Agent”)

**DECISION of the GENERAL INSURANCE COUNCIL
(the “Council”)**

WHEREAS the investigator of the Alberta Insurance Council (the “AIC”) made a request for information in relation to an investigation being conducted by the AIC into the Agent’s failure to provide the information required by the Minister on his 2010/2011 and 2012/2013 renewal applications for Certificate of Authority;

AND WHEREAS as a result of information received, the investigator and the Agent have 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 he will pay a penalty in the amount of SIX HUNDRED DOLLARS (\$600.00) 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 SIX HUNDRED DOLLARS (\$600.00) 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 July 26, 2013. The motion was duly recorded in the minutes of that meeting.

Original signed by
Jim Harris, Chairperson, General Insurance Council