

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 1366675 AB Ltd. / Peace Motors
(the "Agency")

As represented by
Designated Individual Stanley Igiwa
(the "DI")

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

This case involved an allegation pursuant to s. 481(2) of the Act. Specifically, it is alleged that the Dealership failed or refused to provide information requested by the AIC, in a demand for information sent by the AIC, contrary to ss. 481(1) and (2) of the Act.

Facts and Evidence

This matter proceeded by way of a written Report to Council dated June 14, 2014 (the "Report"). The Report was forwarded to the DI for review and to allow the Dealership to provide the Council with any further evidence or submissions by way of Addendum. The Dealership did not respond. Therefore, the evidence contained in the Report is not rebutted.

The Dealership was the holder of a Restricted Insurance Agent's Certificate of Authority for the sale of equipment warranty insurance from April 14, 2011 until June 27, 2013. The DI occupied that role during the same period. The Dealership's certificate of authority was cancelled because it failed to provide the AIC with proof that it held the errors and omissions (E&O) insurance coverage required under the Act.

By letter dated May 6, 2014 the DI wrote to the AIC. In this letter the DI appeared to question how the AIC processed the renewal of the Dealership's certificate and whether the Dealership provided sufficient proof of E&O insurance.

On May 13, 2014 the AIC investigator sent a letter to the DI that requested that the DI confirm the number of equipment warranty insurance policies the Dealership sold since its certificate was cancelled June 28, 2013. The Dealership did not respond, therefore, the investigator sent a formal Demand for Information (the "Demand") to the Dealership on May 29, 2014. The Demand was sent via registered mail to the DI on June 6, 2014 and it requested that the DI provide the information requested in the AIC's May 13, 2014 letter. The Dealership was required to respond by June 12, 2014. Once again, the Dealership did not respond.

Discussion

As has been noted in other decisions of this type, the AIC operates under a delegation from the Minister of Finance and Enterprise. Through its delegation, the AIC has authority to investigate complaints against holders and former holders of insurance agent certificates of authority. Pursuant to Ministerial Directive No. 05/01, the Minister also delegated his powers under s. 481 to the AIC. Section 481 states that "[t]he Minister may direct the holder or former holder of a certificate of authority to provide to the Minister within a reasonable period of time specified in the direction any information specified by the Minister relating to the matters in section 480(1)." Subsection 2 states that the "...person served with a direction ... who has the information must provide the information in accordance with the direction." Further, the only role that a DI plays in the regulatory process is to act as the Dealership's contact point for correspondence from the AIC.

In our view, it is clear that the AIC's investigation fell within the scope of s. 480(1) of the Act and that the investigator was entitled to rely on the demand provisions found in s. 481. To proceed with the investigation, the investigator sent the Demand to the DI at his place of business. It is equally clear that he did not respond to the demand. As such, we find that the Dealership failed to respond as required by s. 481 and thereby contravened a section of the Act as contemplated in s. 480(1)(b).

In terms of the applicable sanction, the public relies on the AIC to investigate complaints and the Act requires that holders and even former holders (such as the Dealership in this case) provide information

when called upon to do so. Acting as an insurance agent is a privilege that is afforded under the provisions of the Act. With that privilege come certain obligations and one of these is to provide the AIC with information. In this case, the DI did not respond to the Demand and he also did not respond to the Report. Given the Dealership's conduct, we are of the view that a civil penalty at the high end of the spectrum is appropriate. Therefore, pursuant to s. 13(1)(b) of the *Certificate Expiry, Penalties and Fees Regulation*, A.R. 125/2001, we order that a civil penalty of \$1,000.00 be levied against the Dealership. In the event that the civil penalty is not paid within thirty (30) days, interest will begin to accrue. Further, the Dealership cannot obtain a new certificate of authority until such time as the civil penalty is paid. Pursuant to s. 482 of the Act (copy enclosed), the Dealership 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.

Date: September 9, 2014

Original signed by
Thom Young, Member
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.

Address for Superintendent of Insurance:

Superintendent of Insurance
Alberta Finance
402 Terrace Building
9515-107 Street
Edmonton, Alberta T5K 2C3