
IN THE MATTER OF the *Insurance Act*, R.S.O. 1990, c.l.8, as amended (the “Act”), in particular sections 441, 441.2 and 441.3;

AND IN THE MATTER OF Ulrich Fabrice Avognon;

**NOTICE OF PROPOSAL TO IMPOSE AN ADMINISTRATIVE PENALTY
AND IMPOSE COMPLIANCE ORDER**

TO: Ulrich Fabrice Avognon

TAKE NOTICE THAT pursuant to section 441.3 of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (“Chief Executive Officer”), the Director, Litigation and Enforcement (“Director”) is proposing to impose an administrative penalty of \$100,000 on Ulrich Fabrice Avognon (“Avognon”), for repeatedly contravening section 439 of the Act by committing an unfair or deceptive act or practice, namely being paid or seeking payment for goods or services in connection with a claim under a contract of insurance which were not provided to a claimant or were provided in a substantially deficient manner contrary to section 6(1) of the Unfair or Deceptive Acts or Practices Rule.

AND TAKE NOTICE THAT pursuant to section 441 of the Act, and by delegated authority from the Chief Executive Officer, the Director has made a Report, attached as Schedule “A”, and is proposing to order Avognon to immediately cease the following activities:

- i. acting as an insurance adjuster in Ontario or in respect of Ontario insurance claims;
- ii. acting in any capacity that requires a licence under the Act; and
- iii. engaging in the business of insurance in Ontario.

Details of these contraventions and reasons for this proposal are described below. This Notice of Proposal includes allegations that may be considered at a hearing.

SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS, veuillez nous envoyer votre demande par courriel immédiatement à : contactcentre@fsrao.ca.

YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SECTIONS 441(3), 441(5), 441.3(2) AND 441.3(5) OF THE ACT. A hearing by the Tribunal about this Notice of Proposal may be requested

by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within fifteen (15) days after this Notice of Proposal is received by you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal
25 Sheppard Avenue W, Suite 100
Toronto, ON M2N 6S6

Attention: Registrar

Fax: 416-226-7750

Email: contact@fstontario.ca

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at www.fstontario.ca.

TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within fifteen (15) days after this Notice of Proposal is received by you, orders will be issued as described in this Notice of Proposal. TAKE FURTHER NOTICE of the payment requirements in section 5 of Ontario Regulation 408/12, which state that the penalized person or entity shall pay the penalty no later than thirty (30) days after the person or entity is given notice of the order imposing the penalty, after the matter is finally determined if a hearing is requested, or such longer time as may be specified in the order.

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, as amended. The Rules are available at the website of the Tribunal: www.fstontario.ca. Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294 or toll free at 1-800-668-0128 extension 7294.

At a hearing, your character, conduct and/or competence may be in issue. You may be furnished with further and/or other particulars, including further or other grounds, to support this proposal.

REASONS FOR PROPOSAL

I. INTRODUCTION

1. These are the reasons of the Director to impose an administrative penalty of \$100,000 and a compliance order on Avognon.

II. BACKGROUND

2. Avognon was a licenced insurance adjuster in Manitoba with two separate licence numbers (licence #2307133-R and #2307223-R) under Manitoba's *Insurance Act*, CCSM, c 140. Avognon used a different address and birthday for each licence.
3. Avognon operated in Ontario under a Letter of Authority issued by the Financial Services Regulatory Authority of Ontario ("FSRA") effective from December 2022. This letter allowed Avognon to carry on preliminary duties on Ontario insurance claims while in the process to obtain an Ontario adjuster licence under the Act.
4. Avognon was employed in Manitoba with Adjuster Company 1 to provide adjusting services for Ontario insureds who were involved in automobile accidents in Ontario, under licence #2307223-R.
5. While working with Adjuster Company 1, Avognon was also employed in Manitoba as an adjuster with Adjuster Company 2, under licence #2307133-R.
6. Upon learning that he was employed at Adjuster Company 1, Adjuster Company 2 informed Adjuster Company 1 of Avognon's dual employment. Adjuster Company 1 terminated Avognon on July 19, 2023, due to his undisclosed employment relationship with Adjuster Company 2. At this time, the Letter of Authority ceased and Avognon is not licensed or authorized under the Act.

III. FACTS

A. Fraudulent Charges on Ontario Insurance Claims

7. On November 24, 2023, Adjuster Company 1 submitted a complaint to FSRA regarding fraudulent activity Avognon engaged in while working with Adjuster Company 1. Adjuster Company 1 identified the conduct after it had terminated Avognon.
8. With Adjuster Company 1, Avognon adjusted automobile insurance claims submitted to an Ontario insurer. Avognon had authority to issue payments up to \$25,000 on these claims.
9. Starting in February 2023, Avognon began inputting charges in insurance claim files for towing and car storage, or for rental car services. The towing and car storage, or rental car services were not required for the insured on these claims and the insured did not receive these services.

10. Avognon input false invoice numbers into the system used to adjust claims and created false payees for the tow and storage companies, or rental car companies. For the false payees, Avognon input his own personal bank account information for accounts he opened at a bank or credit union. After inputting this information, Avognon issued electronic funds transfer payments to his own personal accounts for his personal use.
11. Avognon made 99 fraudulent claim payments between February 9, 2023, and May 25, 2023. In total, Avognon received \$221,543.02 directly to bank accounts he controlled.
12. Adjuster Company 1 reimbursed the Ontario insurer \$250,115 for the fraudulent claim payments.

IV. CONTRAVENTIONS OR FAILURES TO COMPLY WITH THE ACT

Fraudulent Conduct Related to Goods and Services

13. Section 439 of the Act states that no person shall engage in an unfair or deceptive act or practice. Section 438 of the Act defines unfair or deceptive act or practice as any activity or failure to act that is prescribed by the Authority rules as an unfair or deceptive act or practice.
14. Section 6(1) of the FSRA Unfair or Deceptive Acts or Practices Rule (“UDAP Rule”) states that it is an unfair or deceptive act or practice for consideration to be paid or sought for goods or services in connection with a claim under a contract of insurance which were not provided to a claimant or were provided in a substantially deficient manner.
15. In 99 instances, Avognon sought a payment from an Ontario insurer in connection with a claim under a contract of insurance for services not provided to the claimant. In 92 of those instances, Avognon was paid this amount directly into a bank account he controlled.

V. GROUNDS FOR IMPOSING ADMINISTRATIVE PENALTIES

16. The Director is satisfied that imposing administrative penalties under section 441.3(1) of the Act for the contravention of section 439 of the Act as described above will satisfy both of the following purposes under section 441.2(1):
 - i. To promote compliance with the requirements established under the Act; and
 - ii. To prevent a person from deriving, directly or indirectly, any economic benefit because of contravening or failing to comply with a requirement established under the Act.

17. The Director is satisfied that an administrative penalty of \$100,000 should be imposed on Avognon. This administrative penalty will promote compliance with the Act and will help prevent Avognon from retaining the economic benefit he received from his contravention.
18. Section 6 of the UDAP Rule is listed in *Schedule 1* of Ontario Regulation 408/12 and a contravention of this section carries a maximum penalty of \$100,000 for an individual.
19. In determining the amount of the administrative penalties, the Director has considered the following criteria as required by section 4(2) of Ontario Regulation 408/12:
 - i. The degree to which the contravention or failure was intentional, reckless or negligent;
 - ii. The extent of the harm or potential harm to others resulting from the contravention or failure;
 - iii. The extent to which the person or entity tried to mitigate any loss or take other remedial action;
 - iv. The extent to which the person or entity derived or reasonably might have expected to derive, directly or indirectly, any economic benefit from the contravention or failure; and
 - v. Any other contraventions or failures to comply with a requirement established under the Act or with any other financial services legislation of Ontario or of any jurisdiction during the preceding five years by the person or entity.
20. In respect of the **first criterion**, the Director is satisfied that Avognon's conduct was intentional. The number of steps taken by Avognon to direct funds into his own personal accounts for his own personal use demonstrate that this conduct is intentional. Additionally, the attempts to conceal these payments by inputting false entities further underscores that Avognon's conduct was intentional.
21. In respect of the **second criterion**, the Director has considered the serious and potential harm that could result from Avognon's conduct. Avognon caused the Ontario insurer, and subsequently Adjuster Company 1, serious economic harm of \$250,115 in losses from his fraudulent activity.
22. Further, Avognon's misconduct has the potential to harm public confidence in the regulatory regime established by the Act and its regulations.
23. In respect of the **third criterion**, the Director is not aware of any steps taken by Avognon to mitigate any loss caused by the contraventions or any other remedial action. Avognon has not taken any steps to repay Adjuster Company 1.

24. In respect of the **fourth criterion**, the Director is satisfied that Avognon gained a direct economic benefit of at least \$221,543.02 for 92 of the fraudulent charges.
25. In respect of the **fifth criterion**, the Director is unaware of any contraventions or failures to comply with a requirement established under the Act or with any other financial services legislation in Ontario or of any jurisdiction during the preceding five years by Avognon.

VI. GROUNDS FOR ISSUING COMPLIANCE ORDER

26. Section 441(1) of the Act states that, upon examination or investigation, or upon any other evidence, the Chief Executive Officer shall make a report if he or she is of the opinion that a person has committed or is committing any act, or is pursuing any course of conduct that is an unfair or deceptive act or practice or that might reasonably be expected to result in a state of affairs that would constitute an unfair or deceptive act or practice. This report is Schedule "A".
27. Section 441(2) of the Act allows the Chief Executive Officer, on notice and in writing, to make certain orders. This includes ordering a person to cease or refrain from pursuing any course of conduct identified by the Chief Executive Officer and to cease from engaging in the business of insurance or any aspect of the business of insurance identified by the Chief Executive Officer.
28. The Director has been delegated authority under section 441 by the Chief Executive Officer and is of the opinion that Avognon has committed an unfair or deceptive act or practice, as described in this Notice of Proposal and in Schedule "A". As such, the Director has the authority to order Avognon to cease the following:
 - i. acting as an insurance adjuster in Ontario or in respect of Ontario insurance claims;
 - ii. acting in any capacity that requires a licence under the Act; and
 - iii. engaging in the business of insurance in Ontario.
29. To protect the public, insurers, and confidence in the regulatory regime under the Act, the order is appropriate. Avognon's fraudulent conduct as an insurance adjuster is serious and a compliance order is necessary to prevent Avognon from engaging in this conduct in the future.
30. Such further and other reasons as may come to my attention.

SCHEDULE "A"

REPORT OF THE CHIEF EXECUTIVE OFFICER

I. INTRODUCTION

1. The Director, by delegated authority from the Chief Executive Officer, is of the opinion that Avognon is committing acts or pursuing a course of conduct that constitutes an unfair or deceptive act or practice under the Act. This is the Director's report pursuant to section 441 of the Act.

II. FACTS

2. The Director is satisfied of the facts as outlined in the Notice of Proposal, above.
3. Avognon worked as an insurance adjuster in Manitoba and adjusted Ontario insurance claims under the authority of a Letter of Authority issued by FSRA.
4. Avognon input false invoice numbers into the system used to adjust claims and created false payees for the tow and storage companies, or rental car companies. For the false payees, Avognon input his own personal bank account information for accounts he opened at a bank or credit union. After inputting this information, Avognon issued electronic funds transfer payments to his own personal accounts for his personal use.
5. Avognon made 99 fraudulent claim payments between February 9, 2023, and May 25, 2023.
6. In total, Avognon received \$221,543.02 directly to bank accounts he controlled.

III. UNFAIR OR DECEPTIVE ACTS OR PRACTICES

7. Section 439 of the Act states that no person shall engage in an unfair or deceptive act or practice. Section 438 of the Act defines unfair or deceptive act or practice as any activity or failure to act that is prescribed by the Authority rules as an unfair or deceptive act or practice.
8. Section 6(1) of the Unfair or Deceptive Acts or Practices Rule ("UDAP Rule") states that it is an unfair or deceptive act or practice for consideration to be paid or sought for goods or services in connection with a claim under a contract of insurance which were not provided to a claimant or were provided in a substantially deficient manner.
9. In the 99 instances, Avognon sought a payment from the Ontario insurer in connection with a claim under a contract of insurance for services not provided to the claimant. In 92 of those instances, Avognon was personally paid this amount directly into a bank account he controlled.

10. Accordingly, the Director is of the opinion that Avognon has committed unfair or deceptive acts or practices and should be ordered to immediately cease the following activities:
- i. acting as an insurance adjuster in Ontario or in respect of Ontario insurance claims;
 - ii. acting in any capacity that requires a licence under the Act; and
 - iii. engaging in the business of insurance in Ontario.

DATED at Toronto, Ontario,

Elissa Sinha
Director, Litigation and Enforcement

By delegated authority from the Chief Executive Officer