

Consensual Agreement and Undertaking

Between

**The Complaints and Investigation Committee
of
The Hail Insurance Council of Saskatchewan
(the Committee)**

And

Paul Douglas Thorburn

The Committee is authorized under Bylaw 7, Section 5, subsection 3, subparagraph (b), to enter into consensual resolutions of complaints.

Bylaw 5, Section 1, subsection 1 reads: "The administrator shall, in addition to the requirements for the contents of a register required by the Act and the regulations, record on the register the existence of all disciplinary decisions or orders, court orders of suspension, alternative dispute resolution agreements, undertakings and mediation agreements in accordance with council policy." Disciplinary actions as described are reported on the Insurance Councils of Saskatchewan website and the Canadian Insurance Regulators Disciplinary Actions (CIRDA) database.

Paul Douglas Thorburn (Mr. Thorburn) acknowledges and agrees that:

1. He violated Council Bylaws when:
 - A. Contrary to Bylaw 8, Section 1, subsection (a) he:
 - Acted contrary to the best interests of the consumer, or licencees or insurance companies.
 - B. Contrary to Bylaw 8, Section 2 (d) he failed to exercise due diligence, resulting in material mis-statements on an application for licence or report to continue a licence;
 - i. When he neglected to disclose on his Annual Reporting Form that he was the subject of disciplinary action in 2017.
 - ii. When he confirmed he had maintained a valid policy of errors and omissions ("E&O") insurance, knowing he neglected to renew his E&O insurance on April 1, 2018.

Consensual Agreement and Undertaking

Paul Douglas Thorburn

- iii. When on May 28, 2018, he declared all statements and answers on the 2018 Annual Reporting Form were true and correct
- C. Contrary to Bylaw 8, section 2 (g) a licensee may be guilty of misconduct if the licensee: violates any provision of the Act, the regulations or the bylaws;
- i. When contrary to Schedule A, Part II, Section 4, subsection (1) he failed to maintain a valid policy of errors and omissions insurance;
 - a) When on April 1, 2018 he allowed his E&O to lapse while his licence remained active;
 - b) E&O was re-established on April 12, 2018; and
 - c) Mr. Thorburn was without E&O coverage for 11 days.
 - ii. When contrary to Schedule A, Part II, Section 4, subsection (2) he failed to immediately notify council in the event of a cancellation or non-renewal of his errors and omissions insurance.
 - iii. When contrary to Bylaw 2, Section 1, subsection (4) (d) he failed to immediately notify Council of cancellation or non-renewal of his errors and omissions insurance.
- D. Contrary to Bylaw 8, Section 2, subsection (q) he:
- Failed to follow sound business practices.

Mr. Thorburn acknowledges and agrees that:

2. His rights to appear before a Discipline Committee of Council have been explained to him and he fully understands his rights and/or obligations under Council Bylaw 10;
3. He waives his rights to appear before a Discipline Committee and undertakes not to exercise any appeal rights he may have under Council Bylaw 10, Section 3 of *The Saskatchewan Insurance Act*, (the Act) as it relates to matters set out in this Consensual Agreement and Undertaking (Agreement).
4. This Agreement does not preclude Council from pursuing any other investigation against Mr. Thorburn for activities not identified in this Agreement that may be in violation of Council Bylaws or the Act.
5. Mr. Thorburn has been advised by the Committee that it is in his interests to obtain independent legal advice before entering into this Agreement.

Consensual Agreement and Undertaking

Paul Douglas Thorburn

- a. Mr. Thorburn has obtained such independent legal advice and is satisfied with the same, prior to executing this Agreement, or
6. Mr. Thorburn hereby affirms that he has read and understands the terms of this Agreement and is signing it voluntarily and of his own free will.

Mr. Thorburn having waived his rights, undertakes to:

- i. Pay a fine in the amount of \$546.00;
- ii. Reimburse Council's cost of investigation in the amount of \$330.00.
- iii. Pay all fines and investigative costs within 30 days of receipt of this Agreement.
- iv. Mr. Thorburn will ensure E&O insurance is in place while he continues to hold an insurance licence in Saskatchewan.

The Committee's Agreement:

1. The Committee agrees to accept from Mr. Thorburn the payment of \$876.00 as full and final resolution of the violations of Council's Bylaws as outlined in this Agreement; and
2. The Committee further agrees to take no further action against Mr. Thorburn for the acknowledged violations of Council's Bylaws that are set out in this Agreement.

Dated at Assiniboia, in the province of, Saskatchewan, this 21st day of September, 2018

Originally Signed by

Paul Douglas Thorburn

Dated at Regina, in the province of, Saskatchewan, this 1st day of October, 2018

Originally Signed by

Rodney Schoettler, Chair, Complaints and Investigation Committee
Hail Insurance Council of Saskatchewan