



Alberta  
Insurance  
Council

DECEMBER 2009

# Insight

## The Voice of the Alberta Insurance Council

### ALBERTA INSURANCE COUNCIL 1989-2009

The Alberta Insurance Council (AIC) is celebrating its 20<sup>th</sup> year serving Albertans by protecting the public through the regulation of insurance agents, adjusters and brokers.

The AIC is proud to announce that it will award, on an annual basis, scholarships in insurance education at Grant MacEwan University and the University of Calgary. Both institutions offer programs to students who are planning a career in the insurance industry, and the AIC believes it is important to reach out in the community and provide these scholarships to those who plan a career in the insurance industry.

The AIC Anniversary Leadership Awards will recognize one student from each institution and provide them with a \$2,000 scholarship towards their chosen insurance program.

The AIC will allow Grant MacEwan University and the University of Calgary to determine who the recipients will be, and award the scholarships to them.

Announcements of the two students receiving the first Anniversary Leadership Awards will be made at a later date.

### CODE OF CONDUCT

The Life Insurance Council (LIC), the General Insurance Council (GIC) and the Insurance Adjusters Council (IAC) are quasi judicial tribunals delegated the responsibility from the Minister of Finance and Enterprise for the licensing and regulation of insurance intermediaries in Alberta. Each month these Councils hear a variety of cases where it is alleged that an insurance agent, adjuster or broker acted in a manner which violated one or more requirements of the Insurance Act or the regulations under the Act. The

Insurance Act however does not and cannot encompass all aspects of what would be considered ethical actions or the best practice of the business of insurance. To this end each of the industry Councils have worked to develop a comprehensive Code of Conduct to update standards of practice for each sector of the industry.

The underlying principle of the business of insurance is utmost good faith. When purchasing insurance, a client is purchasing a “promise” that they will be indemnified against loss or liability for loss in the event of a specified peril. It is therefore essential to the business of insurance that its participants command and maintain the confidence and respect of the public. This can only be achieved by maintaining a reputation for integrity, competence and good faith.

In establishing these Codes, the Councils are identifying for insurance agents and adjusters the minimum standard of conduct expected of them, as well as identifying for the public at large the standard of conduct they should expect from their agent or adjuster. The extent to which each licensee rises above these standards is a personal decision.

The willingness and commitment of all licensed insurance professionals to achieve widespread compliance with the Codes of Conduct is a more powerful enforcement mechanism than any sanction imposed by a regulatory body. Insurance intermediaries are the public face of the industry and as such are expected to strive to maintain the highest possible standard of ethical conduct and to encourage others to do so as well.

These Codes of Conduct are posted on the Alberta Insurance Council website at [www.abcouncil.ab.ca](http://www.abcouncil.ab.ca). The AIC has established an email address, [cocreview@abcouncil.ab.ca](mailto:cocreview@abcouncil.ab.ca) and would welcome your comments and feedback on the Codes of Conduct.



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## ON-LINE RENEWALS

The AIC has moved away from a paper-based system of renewals and has implemented a mandatory on-line renewal system which began with the Life and Accident & Sickness Agent renewals in December of 2008. The General Agents and Insurance Adjusters on-line renewals followed in 2009.

The certificate(s) you hold must be renewed on-line at the AIC website: [www.abcouncil.ab.ca](http://www.abcouncil.ab.ca). To use this service, you must have a User ID# and Password. If you have not received an ID# and Password or have lost that information, fax one of our offices with a signed written request and they will be provided to you via e-mail. If you previously completed your profile, including the security question, and have lost or forgotten your password, a new one can be obtained off our web site.

You must have completed your profile before proceeding to complete your renewals.

Beginning with the Life and Accident & Sickness renewals in December 2009 and continuing with the General Agents and Insurance Adjusters in 2010, each agent or adjuster must have a sufficient number of continuing education hours reported and entered into our system, for the previous three certificate terms, to complete the renewal. If you are relying on carry forward, you must record sufficient hours to demonstrate that the carry forward has been earned. If the agent or adjuster has held the certificate(s) less than three years, the continuing education hours must be recorded on our system for as long as that certificate has been held.

Where there are insufficient continuing education hours recorded, renewal of that certificate will not be possible.

Please do not send in your continuing education certificates unless you are audited.

Remember that continuing education certificates must be kept for the year they were earned plus an additional three years, unless they are being used for carry forward and then they must be kept until they are no longer used for carry forward.

Payments for renewals can be made on-line using either Visa or Master Card. Agents or adjusters who do not wish to use a credit card on-line may send payment of their fees to the AIC before renewing their certificate and request that the payment be applied to their account. Following receipt of the appropriate fee payment by the Alberta Insurance Council, the agent or adjuster can log on the AIC web site and complete the renewal. A link to the certificate(s) issued on-line will be sent to the agent immediately by email. Once your certificate(s) have been issued, you may retrieve or print a copy of that certificate(s) under your login at any time throughout the year.

The AIC is also positioned to accommodate bulk payments in cases where agencies, adjusting firms or insurers wish to make the payment for their agents' or adjusters' certificates. Agencies, Adjusting Firms or Insurers wishing to use this service should contact one of the AIC offices to obtain further information.

## RECENT DISCIPLINARY ACTIONS

### *In the Matter of the Insurance Adjusters Council ("IAC") and Adjuster "C"*

This case involved allegations pursuant to s. 481 and s. 480(1)(a), or alternatively, s. 480(1)(b) of the Act. Specifically, it was alleged that the Adjuster attested to the fact that they completed the mandatory continuing education ("CE") requirements necessary to renew their adjuster certificate of authority when they did not, in fact, complete the required number of CE hours. In so doing it was alleged that they made a misrepresentation or were dishonest or untrustworthy as contemplated by s. 480(1)(a) of the Act. Alternatively, it was alleged that they did not complete the CE hours in the time required by s. 30(1)(d) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001 (the "Regulation") and consequently contravened the regulation as contemplated by s. 480(1)(b) of the Act. Further, it was alleged that the Adjuster failed to respond to a Demand for Information (the "Demand") as required by s. 481 of the Act.

The evidence before the IAC proved that the Adjuster took only 7.5 hours rather than the pro-rated 10 that



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were required of them. Additionally, some of these 7.5 hours were carried-forward from the previous year. In light of all the circumstances, including the fact that they took at least one course during the period in issue that was not accredited for CE purposes, the IAC was not prepared to conclude that the Adjuster was dishonest or untrustworthy. Rather, they found that the Adjuster failed to obtain the number of CE credits required and, therefore, breached a section of the Act. In this regard they levied a civil penalty in the amount of \$300.00. As to failing to respond to the Demand for Information made under the Act, they found the Adjuster guilty and levied a civil penalty of \$200.00.

The Adjuster subsequently appealed and his appeal was dismissed by the Insurance Councils Appeal Board of Alberta.

### *In the Matter of the Life Insurance Council (“LIC”) and Agent S*

This case involved an allegation pursuant to s. 480(1)(a) of the Act. Specifically, it was alleged that the Agent provided false information to the AIC on a prescribed form, namely an AIC Examination Entrance Form (“the Entrance Form”) with respect to whether the Agent had written the Life License Qualification Program (“LLQP”) examination in any other jurisdiction. In so doing it was alleged that the Agent made a misrepresentation or acted in a dishonest or untrustworthy manner as contemplated in s. 480(1) (a) of the Act. Alternatively, it was alleged that the Agent breached s. 9(3) of the *Insurance Agents and Adjusters Regulation*, A.R. 122/2001 (the “Regulation”) contrary to Section 480(1)(b) of the Act.

In considering the evidence, it was clear that the AIC asked the Agent whether or not they had ever written the licensing examination in Alberta or any other jurisdiction. It is equally clear that the Agent explicitly stated that they had not. Notwithstanding this the Agent had, in fact, written and failed the examination in British Columbia. The Agent stated that they misunderstood the question on the entrance form and did not intend to misstate anything. In the LIC’s view the Agent

intentionally misled the AIC as to the fact that they had written the examination in British Columbia on three occasions so as to sidestep the six month wait period between subsequent exam attempts. First, the entrance form is very clear and the Agent checked the box indicating that they had never written the exam before. Secondly, and most importantly in their view, the Agent had led the British Columbia Insurance Council to believe that they had disclosed his previous attempts to the AIC. Additionally, the Agent’s “residency” in Alberta bore the hallmarks of nothing more than an address of convenience. Throughout the case the Agent maintained their British Columbia residency as far as their agency was concerned and it appeared that the Agent sought an AIC certificate of authority for no other reason than to obtain his British Columbia license. As such, the LIC concluded that the Agent fully acted in an untrustworthy or dishonest manner as contemplated in s. 480(1)(a) of the Act.

In terms of the applicable sanction, the LIC noted that one of the most fundamental qualities of a life insurance agent is that they are trustworthy and honest. In this case, they found that the Agent chose to commence their insurance career by misleading the AIC as to the fact that they had written the licensing exam on numerous occasions in British Columbia. In view of all of the circumstances the LIC levied a civil penalty in the amount of \$3,000.00.

### *In the Matter of the General Insurance Council (“GIC”) and Agent M*

This case related to an allegation that the Designated Representative of an agency (the “Agency”) failed or refused to provide information requested by the AIC within the time specified in a Demand for Information made upon them pursuant to s. 481 of the Act. As a result, it was alleged that the Agent committed an offence.

The facts of the case were that one of the Agency’s clients registered a complaint with the AIC in regard to a commercial policy. The client’s allegation was



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that one of the Agency's brokers told him that coverage was in place while another Agency broker advised the insurer involved to do something else. The AIC's Demand letter to the Agent requested that the Agent respond in writing to the allegations made by the Client. The Agent was required to respond within 15 days of the letter's date. The Agent did not respond in the required time. The agent indicated that the reason for this was that they were busy travelling and processing renewals during this period and could not respond.

The GIC noted that the AIC is a provincially mandated body that operates under a delegation from the Minister of Finance & Enterprise. Through this delegation, the Minister vested the AIC with the authority to investigate complaints against holders and former holders of insurance agent certificates of authority. To conduct these investigations, the Minister also delegated to the AIC the ability to "...direct the holder or former holder of a certificate of authority to provide to the Minister [the AIC] within a reasonable period of time specified by the Minister [the AIC] relating to the matters in section 480(1)." Subsection 2 states that the "...person served with the direction who has the information must provide the information in accordance with the direction."

In their view, the Demand for Information was properly made and the Agent was obligated to respond notwithstanding their other duties and schedule. As such they found that the Agent contravened the Act and levied a civil penalty in the amount of \$300.00.

### *In the Matter of the Insurance Adjusters Council ("IAC") and Adjuster "P"*

This case involved an allegation pursuant to 460(2) of the Act. Specifically, it was alleged that the Adjuster acted as an adjuster during a period of time in which they did not hold a valid and subsisting Certificate of Authority.

As such it was alleged that the Adjuster violated a section of the Act or regulations as contemplated in s. 480(1)(b) of the Act.

The evidence before the IAC proved that the Adjuster acted in the capacity of an adjuster without benefit of a certificate of authority between June 1, 2008 and August 26, 2008. During this period of time the Adjuster handled 16 claims files. As such, the IAC concluded that the Adjuster breached the Act and levied a civil penalty in the amount of \$300.00.

### *In the Matter of the Life Insurance Council ("LIC") and Restricted Agent "A"*

This case is in relation to an allegation made pursuant to s. 452 of the Act. Specifically, it is alleged that the Restricted Agent acted as a restricted insurance agent during a period of time in which it did not hold a valid and subsisting Certificate of Authority to do so, namely from July 23, 2007 to and including February 27, 2008, contrary to section 452(1) of the Act.

In this case the Restricted Agent applied to renew its certificate of authority to act as a credit-related type insurance agent. As its application form was incomplete the AIC wrote to the Restricted Agent to obtain the required information. In its correspondence the AIC also reminded the Restricted Agent that it was not entitled to act in the capacity of an insurance agent until such time as its certificate of authority was issued. Despite the fact that these types of communications were sent to the Restricted Agent a number of times, the Restricted Agent continued to act as an insurance agent for a period of 8 months and sold 128 policies. Given these facts, the LIC found the Restricted Agent guilty of 8 offences under the Act (one offence per month of unlicensed activity) and levied a civil penalty of \$1,000.00 per offence (\$8,000.00 total).