

February 7, 2022

VIA EMAIL

Pitblado Law
2500 - 360 Main Street
Winnipeg, MB R3C 4H6

Attention: Kathleen McCandless

Dear Madam:

Re: IBAM's Application for Review and Variance of Board Order No. 134/21 – IBAM's Reply to CAC's Response
MLT Aikins File No: 0135108-00005

This letter is the Insurance Brokers Association of Manitoba's ("IBAM") Reply to the Consumers' Association of Canada ("CAC") Response to IBAM's Application for Review and Variance of Board Order No. 134/21 (the "Order").

CAC argues that IBAM's Application does not raise an error of fact that raises substantial doubt as to the correctness of the Order. This argument is demonstrably incorrect. There are two errors of fact in the Order identified by IBAM in its Application:

- (1) the Order states that brokers will be paid the same rates for online transactions and in-person transactions for the 2021/22 and 2022/23 years, despite the fact that online transactions will not commence until the 2023/24 year at the earliest; and
- (2) the Order states that brokers will play no role in online transactions, which is contrary to the evidence or, alternatively, not supported by the evidence.

Importantly, Manitoba Public Insurance Corporation ("MPI") is supportive of IBAM's Application as demonstrated by MPI's Reply to IBAM's Application. MPI, in its Reply, agrees that the above-noted findings of fact by the Board are erroneous and that the Board heard little to no evidence respecting the intended role of brokers for online transactions as a result of the Broker Agreement. MPI's support of IBAM's application underscores the errors of fact made by the Board in the Order. IBAM respectfully submits that no other circumstance could raise *more* of a substantial doubt as to the correctness of the Order. IBAM and MPI are the only two parties to the Broker Agreement. If both parties to the Broker Agreement dispute the Board's findings made about the substance of the agreement, the findings are clearly wrong.

CAC also appears to make the argument that, because the impugned findings were available to the Board based on the evidence presented (which is disputed), there was no error of fact. Respectfully,

this cannot be so. The Board serves an important public purpose; the public depends on the Board for its findings. Not only can the members of the Board themselves ask questions of witnesses during a hearing, the Board is also represented by experienced counsel who may ask questions, pose information requests and request undertakings from MPI witnesses. If the Board intends to make a factual finding with respect to an issue for which there is not sufficient evidence before it, it has the power to compel responses from MPI and others in order to have the requisite evidence to make such findings of fact. It is not in the public interest for the Board to make factual findings based on insufficient evidence where it has powers to compel additional evidence. IBAM therefore submits that the Board should reject CAC's contention that it is not an error of fact for the Board to make a factual finding based on insufficient evidence.

CAC also attempts to minimize the impact of the Board's findings with respect to brokers by arguing:

“There were no Directives or recommendations relating to brokers and broker commissions in the Board's Order 134/21. The Board's discussion with respect to brokers is limited to findings of fact of approximately one page.”

IBAM submits that the findings of the Board carry a significant impact on brokers and the public perception, regardless of whether any Directives or recommendations were issued by the Board. This is further underscored by the disproportionate prominence of the Board's findings on this issue in the Press Release, which constituted nearly one third of that document. The correctness of these findings cannot and ought not to be minimized for the reasons argued by CAC. Correcting these errors of fact is of the utmost importance to IBAM and its members, and to the public interest.

Service of this Application on the parties to the 2022/2023 Manitoba Public Insurance General Rate Application is being effected concurrently.

Yours truly,

MLT AIKINS LLP

Per:



Michael J. Weinstein

MJW:ace

cc: Public Utilities Board, *Attention: Kristen Schubert and Dr. Darren Christle*

cc: Pitblado LLP, *Attention: Robert Watchman and Kara Moore, counsel for the Public Utilities Board* cc:

Manitoba Public Insurance Corporation, *Attention: Steve Scarfone and Anthony Guerra*

cc: Public Interest Law Centre, *Attention: Katrine Dilay and Christopher Klassen, counsel for the Consumers' Association of Canada (Manitoba) Inc.*

cc: BD Oakes, *Attention: Charlotte Meek, Counsel for the Coalition of Manitoba Motorcycles Groups*

cc: Thompson Dorfman Sweatman LLP, *Attention: Antoine Hacaault, counsel for Taxi Coalition*