
IN THE MATTER OF the *Insurance Act*, R.S.O. 1990, c.l.8, as amended (the “Act”), in particular sections 392.4 and 407.1;

AND IN THE MATTER OF Sadrudin J. Khushal.

NOTICE OF PROPOSAL TO REFUSE TO RENEW LICENCE

TO: Sadrudin J. Khushal

TAKE NOTICE THAT pursuant to sections 392.4 and 407.1 of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), **the Director, Litigation and Enforcement (the “Director”)** is proposing to refuse to renew the life insurance agent licence issued to **Sadrudin J. Khushal**. The reasons for this proposal are described below.

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 407.1(2) AND 407.1(3) 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 West, 7th Floor
Toronto, Ontario
M2N 6S6

Attention: Registrar

Fax: 416-226-7750

Email: contact@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.

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

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 for the proposal by the Director to refuse to renew the insurance agent licence issued to Sadrudin J. Khushal (“Khushal”).
2. The Director has reasonable grounds to believe that Khushal is not suitable for licensing having regard to the circumstances prescribed under the Act.

II. BACKGROUND

Overview

3. Khushal has been licensed continuously as a life and accident and sickness insurance agent (licence # 94014105) under the Act, since 1994.
4. On July 9, 2020, Khushal entered into a Minutes of Settlement and Undertaking (“MOS”) with the Financial Services Regulatory Authority of Ontario (“FSRA”), wherein he acknowledged having contravened the Act on multiple occasions over many years, made an agreement to surrender his licence and pay an administrative penalty, and gave an undertaking not to apply for an insurance agent licence indefinitely.
5. Khushal has repeatedly breached the terms of the MOS by not surrendering the licence and applying for renewal of the licence. The licence was renewed in error for 2021 with an expiry date of January 19, 2023. Khushal applied to renew the licence again in 2023.
6. Khushal made material misstatements and omissions on the applications to renew the licence for 2021 (“2021 Renewal”) and 2023 (“2023 Renewal”).

The 2019 NOP and MOS

7. On or about March 2, 2017, the Financial Services Commission of Ontario (“FSCO”) received a Life Agent Reporting Form from Industrial Alliance with respect to Khushal. Following an investigation of Khushal’s life insurance practice, the FSCO determined that he contravened the Act, in addition to being a defendant in several civil proceedings related to insurance policies he sold.
8. On February 28, 2019, the Superintendent of Financial Services of the FSCO, issued an Notice of Proposal to revoke Khushal’s licence and impose administrative penalties in the total amount of \$8,000 (the “2019 NOP”).

9. On March 13, 2019, Khushal disputed the Notice of Proposal and requested a hearing before the Financial Services Tribunal.
10. Effective, June 8, 2019, pursuant to the *Financial Services Regulatory Authority of Ontario Act, 2016*, S.O. 2016, c. 37, Sched. 8, the FSRA became the regulator under the Act and the powers and duties previously vested in the Superintendent of the FSCO were vested in the Chief Executive Officer.
11. Khushal was represented by counsel and settled the 2019 NOP with FSRA by entering into the MOS.
12. On August 26, 2020, FSRA issued an Order imposing summary administrative penalties in the total amount of \$5,000, which Khushal paid in full.

Registered Insurance Brokers of Ontario (RIBO) Discipline

13. On or about December 29, 2022, FSRA became aware that Khushal had been the subject of a RIBO disciplinary decision dated December 22, 2022, arising from a consumer complaint of misconduct.
14. Khushal entered a guilty plea to the allegations of professional misconduct and the RIBO Discipline Committee accepted an Acknowledgement and Consent dated June 22, 2022 outlining a joint submission on penalty. Khushal’s RIBO membership was suspended for one (1) month, he was fined \$1,000 and required to successfully complete an Ethics course within six (6) months of the date of the hearing.
15. Khushal was made aware of the RIBO investigation into a complaint about him on October 10, 2018. Khushal was under investigation and the subject of discipline by both FSCO/FSRA and RIBO at the same time.

Applications to Renew the Licence

16. Khushal never surrendered his licence pursuant to the MOS. Instead, he submitted bi-annual renewal applications to FSRA on the following dates:

Application Year	Submission Date
2021	December 3, 2020
2023	January 18, 2023

17. In both the 2021 Renewal and 2023 Renewal, Khushal advertently made material misstatements or omissions. On both applications, Khushal swore to have truthfully answered all questions, and certified he understood that “providing false, misleading or incomplete information in this application and/or any attachments requested may be sufficient grounds to reject the application or revoke a licence, or result in your prosecution.”

2021 Renewal

18. On the 2021 Renewal, Khushal answered “no” as to whether he had a licence or registration to deal with the public refused, revoked, suspended or cancelled. He also answered “no” when asked whether he had been subject to discipline by a regulatory authority. Khushal provided those answers when he knew he had entered into the MOS and agreed to surrender his licence.
19. When he submitted the 2021 Renewal, Khushal knew there was an ongoing RIBO investigation into a complaint, yet he answered “no” to whether he had been the subject of an investigation by a regulatory authority.
20. Further, Khushal failed to disclose that he was a defendant in several civil proceedings related to insurance policies that he sold.

2023 Renewal

21. On January 18, 2023, Khushal submitted an application to renew his FSRA licence one day before it was set to expire on January 19, 2023. Once again, Khushal provided answers to the application questions that were material misstatements or omissions of the facts.
22. Khushal disclosed the RIBO disciplinary action but falsely stated that it was “disclosed previously”. Specifically, Khushal stated “I had a professional negligence case with RIBO in January 2020 **which was disclosed previously**. RIBO FILE NO-6699. This case has been successfully settled and file closed by RIBO”. (*emphasis added*)
23. In fact, Khushal had not disclosed the RIBO matter to FSRA prior to the 2023 Renewal. Further, in answering the question, Khushal continued his pattern of concealing the FSCO investigation, the 2019 NOP and the MOS.
24. Khushal answered “no” when asked if was currently a defendant in any civil proceeding. That answer was not true. Khushal was named as a defendant in a proceeding before the Ontario Superior Court of Justice that was commenced on May 22, 2020.

III. GROUNDS FOR REFUSING TO RENEW THE LICENCE

25. Section 392.4(1) of the Act states that the Chief Executive Officer shall issue a licence to act as an insurance agent in Ontario to an applicant who applies in accordance with section 392.3 and who satisfies the prescribed requirements for the licence unless the Chief Executive Officer believes, on reasonable grounds, that the applicant is not suitable to be licensed having regard to such

circumstances as may be prescribed and such other matters as the Chief Executive Officer considers appropriate.

26. Subsection 7(4) of O. Reg. 347/04 states that an application for renewal of a licence may be refused on any grounds on which the Chief Executive Officer is authorized to suspend or revoke the licence.
27. Section 8 of the Ontario Regulation 347/04 states that the Chief Executive Officer may suspend or revoke a licence on any grounds on which an application for a licence may be refused or if, after due investigation and hearing, it appears to the Chief Executive Officer that the licensee:
 - a) violated any provision of the licence in the licensee's operations as an agent;
 - b) made a material misstatement or omission in the application for the licence;
 - c) been guilty of a fraudulent act or practice; or
 - d) demonstrated incompetence or untrustworthiness to transact the insurance agency business for which the licence has been granted.

Suitability

28. FSRA must assess suitability keeping in mind that the purpose of licensing is to ensure that the public receives competent and ethical insurance brokering services from those licensed to participate in the industry. Licensed insurance agents serve as trusted advisors to their clients who often rely on their insurance agents when making important financial decisions that can have a significant impact on their lives and well-being. As such, the questions posed to those who apply for licenses or renewals under the Act are vitally important to FSRA in assessing the suitability and qualifications of applicants. These questions are a necessary screening tool to protect the public from unqualified, unsuitable, and unscrupulous persons.
29. As set out above, the Director is of the view that Khushal is not suitable to be licensed for the following reasons because he:
 - a) demonstrated incompetence and untrustworthiness to transact the insurance agency business for which the licence has previously been granted:
 - i. by failing to surrender the licence contrary to the MOS;
 - ii. by applying on two occasions for renewal of the licence contrary to the MOS and the undertaking not to apply indefinitely for an insurance agent licence;
 - iii. by engaging in conduct that contravened the Act that he admitted in the MOS and accepted disqualified him from licensing;
 - iv. by engaging in professional misconduct as an insurance agent for which he entered a guilty plea before the RIBO Discipline Committee and was penalized; and,

b) By repeatedly providing answers he knew were material misstatements or omissions to questions on applications to renew his licence for 2021 and 2023.

30. Such further and other reasons as may come to the attention of the Director.

DATED at Toronto, Ontario, June 16, 2023

Elissa Sinha
Director, Litigation and Enforcement

By delegated authority from the Chief Executive Officer