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

AND IN THE MATTER OF Sivashanthi Vijayakumaran.

NOTICE OF PROPOSAL TO REFUSE TO ISSUE LICENCE

TO: Sivashanthi Vijayakumaran

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 issue an insurance agent licence to Sivashanthi Vajayakumaran.**

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 reasons for the proposal by the Director to refuse to issue an insurance agent licence to Sivashanthi Vijayakumaran (“the Applicant”).

II. BACKGROUND

2. On July 7, 2023, the Applicant submitted an application for an insurance agent licence under the Act (the “2023 Application”). The Applicant breached a code of conduct with another regulator and failed or refused to provide complete and truthful disclosure on the 2023 Application.

RECO Discipline

3. The Real Estate Council of Ontario (“RECO”) administered and enforced the *Real Estate and Business Brokers Act, 2002* (“REBBA”) and O. Reg. 580/05: Code of Ethics (the “Code”) until 2023 when REBBA was repealed and replaced with the *Trust in Real Estate Services Act, 2002* (“TRESA”).
4. At the relevant time, the Applicant was registered as a Real Estate Salesperson under the REBBA, and she continues to be registered under TRESA.
5. The Applicant was disciplined by RECO in 2020 by way of Agreed Statement of Fact and Penalty. In a decision released on June 11, 2020 (the “RECO Decision”), the Applicant admitted to the following:
 - a. The Applicant set and then cancelled a viewing of the property for her client scheduled for Friday, April 19, 2019.
 - b. The Applicant inadvertently attended the property at an unscheduled viewing time on Sunday, April 21, 2019.
 - c. Upon arrival at the Property, the Applicant provided her buyer client, who was her daughter’s fiancé, with the lockbox code to the Property.
 - d. The client operated the lockbox to gain entry to the Property.
 - e. After viewing the Property with her client, the Applicant inadvertently failed to close and lock the door to the Property upon their exit.

6. In the RECO Decision, the Applicant agreed her conduct violated sections 3 and 39 the Code, specifically:

Fairness, honesty, etc.

3. A registrant shall treat every person the registrant deals with, in the course of a trade in real estate, fairly, honestly and with integrity.

Unprofessional conduct, etc.

39. A registrant shall not, in the course of trading in real estate, engage in any act or omission that, having regard to all of the circumstances, would reasonably be regarded as disgraceful, dishonourable, unprofessional or unbecoming a registrant.

7. The Applicant agreed to and was ordered to pay a penalty of \$4,000 payable on or before June 1, 2021. The Applicant paid the penalty.

The 2023 Application to FSRA

8. Despite having entered into the Agreed Statement of Fact and Penalty with RECO, and the RECO Decision, the Applicant answered “No” in response to the following question on the 2023 Application for an insurance agent licence:

Have you ever been refused registration or a licence under any legislation which required registration or licensing to deal with the public in any capacity (e.g. insurance agent, RIBO Broker, securities dealer, motor vehicle dealer, etc.) in any province, territory, state or country; *or **have you held such a licence and been the subject of a disciplinary proceeding that resulted in a penalty being imposed*** (e.g. suspension, termination, reprimand, surrender, etc.) or are you the holder of such a licence and currently the subject of an investigation or upcoming disciplinary proceeding that may result in a penalty being imposed?” *[Emphasis added]*

9. Later in the application, the Applicant falsely certified and swore she had truthfully answered all questions.
10. When asked why she did not disclose the RECO Decision on the application, the Applicant said it was an “oversight” and a “lapse of judgment”.

III. GROUNDS FOR REFUSAL TO ISSUE LICENCE

11. 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.

12. Section 4 of Ontario Regulation 347/04, subsections (a) and (i) respectively, provide that an applicant for a licence shall be granted a licence if the Chief Executive Officer is satisfied that the applicant is of good character and reputation, and is otherwise suitable to receive a licence.
13. To protect consumers, FSRA performs a gatekeeper function in assessing licensing applicants for suitability. When FSRA issues a licence, it endorses the good character and reputation of applicants, assuring the public that the licensee can serve as a trusted advisor to 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. When applicants fail or refuse to take reasonable and appropriate steps to provide complete and truthful disclosure, they prevent FSRA from performing its gatekeeping function.
14. The totality of the Applicant's conduct, including that which was resolved by the RECO Decision, indicates that the Applicant would pose a significant risk to consumers if licensed that cannot be cured by attaching conditions to the licence.
15. For the reasons set out above, the Director is of the view that the Applicant is not suitable to be licensed under the Act.
16. Such further and other reasons as may come to my attention.

DATED at Toronto, Ontario,

Elissa Sinha
Director, Litigation and Enforcement

By delegated authority from the Chief Executive Officer