



REGARDING the *Insurance Act*, RSO 1990, c I-8, as amended (the “Act”), in particular, sections 393(9) – 393(11)

AND REGARDING John A. Kennedy, Life Insurance and Accident and Sickness Insurance Agent

DECISION AND ORDER

Overview:

Mr. John A. Kennedy has not requested a hearing in response to the September 30, 2014 Notice of Opportunity for Hearing (the “Notice”) to revoke his life insurance and accident and sickness insurance agent licence (“insurance agent licence”). There are no explanations for his behaviour. Nor is there any demonstrated interest in maintaining his insurance agent licence. The insurance agent licence of Mr. Kennedy is revoked.

Introduction:

On September 30, 2014, the Superintendent of Financial Services (“Superintendent”) issued a Notice to Mr. John A. Kennedy. The Notice informed Mr. Kennedy of allegations against him and the opportunity for a hearing before an Advisory Board. The Notice advised Mr. Kennedy that if a hearing was not requested the Superintendent would make a decision based on information in the possession of the Financial Services Commission of Ontario (the “Commission”). Mr. Kennedy was also advised that such a decision could suspend or revoke his insurance agent licence and/or impose terms and conditions on his licence.

I received evidence from Legal Counsel at the Commission that the Notice was sent by both registered and regular mail to the address on file at the Commission and that no request for a hearing was received. I am satisfied that the Notice was properly served in accordance with the provisions of the Act and that Mr. Kennedy did not request a hearing.

A copy of the allegations is attached to this Decision in Schedule 1.

The Evidence:

Since Mr. Kennedy has not requested a hearing, the evidence of Commission staff in the particulars attached to the Notice is uncontested.

The evidence can be summarized as follows. Mr. Kennedy held a licence as an insurance agent since July 12, 2000. His previous licence expired on July 11, 2012.

On January 2, 2013 Mr. Kennedy submitted an application to renew his insurance agent licence. On that application Mr. Kennedy indicated that he had not completed 30 hours of Continuing Education ("CE") credits during the previous two years, as is required for the renewal of an insurance agent licence. After discussion with Commission staff, Mr. Kennedy signed Minutes of Settlement on June 4, 2013, which included a compliance plan for the completion of his outstanding CE credits by June 30, 2013. Mr. Kennedy also acknowledged that if he failed to obtain and submit his proof of CE compliance the Superintendent would issue a Notice to revoke his insurance agent licence. In accordance with the Minutes of Settlement, Mr. Kennedy's licence was renewed on June 27, 2013 with an expiry date of June 26, 2015.

Mr. Kennedy did not submit any proof of CE credits to the Commission by the June 30, 2013 deadline. Instead, on July 23, 2013, Mr. Kennedy requested that the deadline be extended. That request was refused. To date, Mr. Kennedy has not provided proof of completion of his outstanding CE credits for the two-year period ending July, 2012.

On September 30, 2014, Commission staff sent the Notice to Mr. Kennedy by both regular and registered mail but no response was received.

Findings of Fact:

I find that Mr. Kennedy failed to comply with the conditions of the Minutes of Settlement he signed on June 4, 2013. The September 30, 2014 Notice that was sent via registered mail was returned to the Commission by Canada Post with the inscription, "unclaimed". The Notice sent by regular mail was not returned.

I find that Mr. Kennedy failed to comply with the CE requirements. Mr. Kennedy admitted that he had not done so and failed to provide evidence of compliance thereafter. As such, I find that Mr. Kennedy is unsuitable to hold a licence as an insurance agent.

In the absence of testimony by Mr. Kennedy, I am not aware of any explanations for his behaviour or mitigating circumstances.

Decision:

I have found that Mr. Kennedy failed to comply with the CE requirements for an insurance agent licence and that he also failed to comply with a condition of his licence to which he had agreed.

Sections 442.1 and 442.3 of the Act permit the Superintendent to direct an inquiry to an agent and require the agent to give the Superintendent full information about any matters as may be specified by the Superintendent.

Section 14 of Ontario Regulation 347/04 (the Regulation) requires that an individual who holds an insurance agent licence complete at least 30 hours every two years of continuing education acceptable to the Superintendent. Mr. Kennedy failed to provide proof that he has remedied that deficiency in accordance with the June 4, 2013 Minutes of Settlement, and is therefore in contravention of the Regulation and a requirement of his insurance agent licence.

Insurance agents must be governable and amenable to being regulated. In this case, Mr. Kennedy failed to meet his obligation to comply with the CE requirement, and is not suitable to hold a licence as an insurance agent. A penalty is therefore warranted.

Findings of unsuitability frequently result in the revocation of an insurance agent licence. Accordingly, I believe that the appropriate penalty is revocation of Mr. Kennedy's licence as an insurance agent.

ORDER

The life insurance and accident and sickness insurance agent licence of John A. Kennedy is hereby revoked.

DATED at Toronto, Ontario, March 6, 2015.

Anatol Monid
Executive Director, Licensing & Market Conduct Division

By Delegated Authority from:
The Superintendent of Financial Services

Si vous désirez recevoir cet avis/ordre en français, veuillez adresser votre demande dans un délai de 15 jours à:
Adjointe, audiences, Greffe, Commission des services financiers de l'Ontario, 5160 rue Yonge, boîte 85, Toronto
ON M2N 6L9

Schedule 1

The following allegations were set out in the Notice:

The Financial Services Commission of Ontario (“FSCO”) submits that the Life insurance and Accident and Sickness Agent Licence of John A. Kennedy, licence #00061626, should be suspended or revoked based on the following Allegations, details of which are set out separately under Particulars.

ALLEGATIONS

1. Mr. Kennedy has failed to comply with the Insurance Act, R.S.O. 1990, c.l.8, as amended (the “Act”), and Regulation 347/04 (the “Regulation”). Specifically:
 - a. Contrary to s.14 of the Regulation, Mr. Kennedy failed to complete 30 hours of acceptable continuing education in the two year licensing period that ended July 11, 2012;
 - b. Contrary to 447(2)€ of the Act, Mr. Kennedy failed to comply with a condition placed on his license upon renewal that he complete the continuing education from the previous period by June 30, 2013, and,

2. Such further allegations as counsel for FSCO may advise.